



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
THE LEUKEMIA & LYMPHOMA SOCIETY, INC.

CONDITION:

DECEMBER 31, 2016

DATE OF REPORT:

JULY 28, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

ANN MARIE THOMPSON

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.	Corporate governance	5
5.	Significant financial information	6
6.	Treatment of annuitants	7
7.	Annual statement reporting	8
8.	Summary and conclusions	9



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

March 9, 2018

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

Madam:

In accordance with instructions contained in Appointment No. 31617, dated April 20, 2017 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Leukemia & Lymphoma Society, Inc., hereinafter referred to as “the Fund.” The Fund’s home office is located at 3 International Drive, Suite 200, Rye Brook, New York 10573.

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 maintain 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 4 of this report)

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 4 of this report)

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms 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 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, 2011. This examination covers the period from January 1, 2012 through December 31, 2016. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2016 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, 2016 to determine whether the Fund's filed 2016 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 Leukemia & Lymphoma Society, Inc. (“Society”) is organized for the purpose of supporting research into the causes, treatments and cure of blood related cancers, including leukemia, lymphoma, Hodgkin's disease and myeloma. The Society solicits contributions and advocates for government funding to carry out the corporation's stated purposes. The Society has been issuing gift annuity agreements since 2001. A special permit was granted to the Society by the Department on September 7, 2007 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 annuity agreements are handled by the Fund. Merrill Lynch Trust Company is the custodian of the Fund's assets and the Fund's investment manager. Merrill Lynch Trust Company provides services, including record keeping, the mailing of annuity payments checks and IRS Form 1099-R to annuitants, and filing of reports to the IRS.

Other functions are outsourced to the Fund's Certified Public Accountant, Daniel O'Connell. Daniel O'Connell performs financial, accounting and tax services, and prepares the Annual Statement for filing.

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 limited to a maximum of 36 regular voting trustees. As of December 31, 2016, the board consisted of 27 trustees. The board elects a President/Chief Executive Officer. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

4. CORPORATE GOVERNANCE

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 was unable to provide a copy of the annual or special meetings of the board of directors in response to the examiner’s request, but was able to provide some Investment Committee minutes.

The examiner’s review of the Investment Committee minutes dated June 26, 2014 revealed that the Committee acknowledged receipt of the prior report on examination as of December 31, 2011. However, the Fund failed to provide evidence of signed statements 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 maintain 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 Investment Committee 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.

5. SIGNIFICANT FINANCIAL INFORMATION

The following summary table indicates the decline in various categories of the Fund's assets, liabilities, and fund balance during the period under review:

	December 31, <u>2011</u>	December 31, <u>2016</u>	Increase (Decrease)
Admitted assets	<u>\$1,516,982</u>	<u>\$1,210,056</u>	<u>\$(306,926)</u>
Liabilities	<u>\$1,046,126</u>	<u>\$ 867,643</u>	<u>\$(178,483)</u>
Minimum required fund balance	\$ 104,613	\$ 86,764	\$ (17,848)
Excess fund balance (surplus)	<u>366,243</u>	<u>255,649</u>	<u>(110,594)</u>
Total annuity fund balance	<u>\$ 470,856</u>	<u>\$ 342,413</u>	<u>\$(128,443)</u>
Total liabilities and annuity fund balance	<u>\$1,516,982</u>	<u>\$1,210,056</u>	<u>\$(306,926)</u>

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 43 with annual payment amounts of \$119,680 as of December 31, 2011 to a total of 36 with annual payment amounts of \$108,537 as of December 31, 2016.

The Fund's admitted assets, as of December 31, 2016, were invested mainly in bonds (74.77%) and stocks (19.12%). All bonds held were investment grade.

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.

Section 1110 (a) of 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 the one gift annuity agreement form used by the fund for gift annuities issued in New York during the examination period noted that the Fund used a gift annuity agreement form that differed from the gift annuity agreements filed with the Superintendent, including not having the policy form number on the form.

The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms 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.

7. ANNUAL STATEMENT REPORTING

The Department's Instructions for completing Schedule A, Part 3 – Common Stocks, of the Segregated Gift Annuity Fund Annual Statement states the following, in part:

“Column 1 – CUSIP Identification: CUSIP identification numbers must be listed for all publicly traded securities. If the security/mutual fund was owned during the previous year, the CUSIP will be from the previous year's Statement. If the security was purchased in the current year, the CUSIP can be obtained from the broker's confirmation or certificate.”

For each examination year 2012 through 2016, the Fund failed to report the CUSIP identification number for common stocks owned, purchased, and sold, within Schedule A, Parts 3 through 5 of its filed annual statements. The Fund stated that its custodian, Merrill Lynch, does not provide CUSIP information on any of the common stocks owned, purchased, and sold, as required by the annual statement instructions.

The Department's Instructions for completing Schedule B – Money Market Mutual Funds of the Annual Statement states the following, in part:

“Report only money market mutual funds in this Schedule. Examples of money market mutual funds are funds that invest solely in money market instruments, such as commercial paper, Treasury bills and other highly liquid securities.

Mutual funds are reported as common stocks in Schedule A – Part 3. Examples of mutual funds are funds that invest in stocks, bonds, options or currencies...”

The Fund reported \$69,817 in the BIF Money Fund as of December 31, 2016 in Schedule B of its filed annual statement. The \$69,817 should have been reported in Schedule A, Part 3.

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

8. SUMMARY AND CONCLUSIONS

Following are the violations 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 maintain signed statements from the board members indicating that 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 trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
D	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity agreement forms that were filed with the Superintendent.	7
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.	7
F	The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.	8

Respectfully submitted,

/s/
AnnMarie Thompson
Senior Insurance Examiner

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

AnnMarie Thompson, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

/s/
AnnMarie Thompson

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31617

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:

ANN MARIE THOMPSON

as a proper person to examine the affairs of the

***SEGREGATED GIFT ANNUITY FUND OF THE
LEUKEMIA & LYMPHOMA SOCIETY, INC.***

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

FUND

with such other information as she 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 20th day of April, 2017

*MARIA T. VULLO
Superintendent of Financial Services*

By:

Mark McLeod

**MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU**

