



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
ROSWELL PARK ALLIANCE FOUNDATION

CONDITION:

DECEMBER 31, 2017

DATE OF REPORT:

MAY 18, 2018

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

HUGHROY MIGHTY

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

July 2, 2019

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

Madam:

In accordance with instructions contained in Appointment No.31744, 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 Roswell Park Alliance Foundation, hereinafter referred to as the "Fund." The Fund's home office is located at Elm & Carlton Streets, Buffalo, NY 14263.

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 and 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 3C 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 3C of this report)

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the December 31, 2017 filed annual statement. (See item 4 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, 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 Roswell Park Alliance Foundation (“Foundation”) is a not-for-profit corporation organized in March 1991 for the purpose of receiving and administering gifts and bequests made to benefit Roswell Park Cancer Institute, a National Cancer Institute designated comprehensive cancer center located in Buffalo, NY. The Foundation established a program to issue gift annuity agreements in return for gifts from donors, and it has done so since 1997. The Foundation surrendered its special permit in 2002 but continued to issue annuities while the Fund’s reserves were under \$500,000. A special permit was granted to the Foundation by the Department on October 7, 2008, authorizing it to issue gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

The operations related to accounting are performed by the Fund. BPAS Actuarial & Pension Services performs the reserve calculations and prepares a certification of the Fund’s reserves in connection with the annual statements filed with the Department. HSBC Private Bank is the Fund’s custodian and investment manager.

C. Corporate Governance

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of directors. The number of directors is limited to no fewer than 20 and no more than 26 regular voting directors. The targeted number of directors is 24. As of December 31, 2017, the board consisted of 23 directors. The directors elect the Chair of the board, one or more vice chairs, Secretary, and Treasurer, and other officers with such powers and duties not inconsistent with the by-laws as may be appointed and determined by the board of directors. 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 and maintain 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 and 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.

4. 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>2012</u>	December 31, <u>2017</u>	Increase (Decrease)
Admitted assets	\$ <u>1,948,372</u>	\$ <u>1,312,289</u>	\$(<u>636,083</u>)
Liabilities	\$ <u>1,438,341</u>	\$ <u>917,784</u>	\$(<u>520,557</u>)
Minimum required fund balance	\$ 143,834	\$ 91,778	\$ (52,056)
Excess fund balance (surplus)	<u>366,197</u>	<u>302,727</u>	<u>(63,470)</u>
Total annuity fund balance	\$ <u>510,031</u>	\$ <u>394,505</u>	\$(<u>115,526</u>)
Total liabilities and annuity fund balance	\$ <u>1,948,372</u>	\$ <u>1,312,289</u>	\$(<u>636,083</u>)

The decrease in assets, liabilities and annuity fund balance reflects a decrease in the total number of annuities in force. Annuities decreased from 18 with annual payment amounts of \$185,437 as of December 31, 2012 to a total of 10 with annual payment amounts of \$89,735 as of December 31, 2017. The decrease was due to normal terminations as annuitants passed away during the exam period. The admitted assets associated with these annuities were transferred out of the Fund to either the Foundation's unrestricted assets or the Foundation's restricted assets if the annuity proceeds were designated to a specific project or program.

The Fund's admitted assets, as of December 31, 2017, were invested mainly in common stock (99.19%).

5. TREATMENT OF ANNUITANTS

The examiner reviewed a sample of annuity contracts terminated during the examination period. The examiner's review revealed that in 5 out of 5 cases (100%) 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. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

<u>Item</u>	<u>Description</u>
A	<p>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.</p> <p>A review of the Segregated Gift Annuity Fund was added to the quarterly Investment Committee meeting agenda, beginning with the January 28, 2016 meeting. However, the examiner's review revealed there was no evidence of the approval of investment transactions. A similar recommendation appears in this report on examination.</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 Fund violated Section 312(b) of the New York Insurance Law by failing to obtain and maintain 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 trustees, or a committee thereof, approve the purchases and sales of all investments and note such approvals in the minutes.	5
D	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/
Hughroy Mighty
Insurance Examiner

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

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

_____/s/
Hughroy Mighty

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31744

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:

HUGHROY MIGHTY

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
ROSWELL PARK ALLIANCE FOUNDATION**

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:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

