



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
FOUNDATION OF ROMAN CATHOLIC DIOCESE
OF BUFFALO, INC.

CONDITION:

DECEMBER 31, 2018

DATE OF REPORT:

JULY 25, 2019

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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EXAMINER:

ADELIA GBADAMOSI

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

February 13, 2020

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

Madam:

In accordance with instructions contained in Appointment No. 31907, dated May 6, 2019 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the Foundation of Roman Catholic Diocese of Buffalo, Inc. hereinafter referred to as “the Fund,” at its home office located at 795 Main Street, Buffalo, New York 14203.

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 investments and note such approvals in the minutes. This is a repeat recommendation. (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 Investment Strategy Statement's ("ISS") 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 gift annuity agreement forms that were not on file 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)

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 also reviewed the corrective actions taken by the Fund with respect to the recommendations and comment 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 Foundation of the Roman Catholic Diocese of Buffalo, Inc. (the “Foundation”) is organized for the purpose of establishing, maintaining, and operating funds for the charitable purpose of the Roman Catholic Diocese of Buffalo, Inc. A special permit was granted to the Foundation by the Department on February 9, 2009, for the purpose of issuing gift annuity agreements as specified in Section 1110 of the New York Insurance Law.

B. Services

Bank of New York Mellon is the custodian of the Fund’s investments. All operations related to the issuance, maintenance and settlement of annuity agreements are handled by the Fund. Annuity illustrations and software calculations are handled by PG Calc.

C. Corporate Governance

The management of the Foundation and the Fund and all of its affairs and property are entrusted to a board of trustees. The number of trustees is limited to not less than 3 and not more than 25 ex-officio and elected members. As of December 31, 2018, the board consisted of 22 trustees. The trustees elect an Executive Director, Treasurer, Secretary, and such other officers as the board may authorize. The nomination and election procedures of the trustees and their terms of office are set by the by-laws.

The examiner reviewed the board of trustees’ minutes to determine whether the board approved the purchases and sales of investments during the examination period. The minutes did not contain any indication that the board 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 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>\$105,041</u>	<u>\$545,140</u>	<u>\$440,099</u>
Liabilities	<u>\$ 0</u>	<u>\$409,931</u>	<u>\$409,931</u>
Minimum required fund balance	\$ 0	\$ 40,993	\$ 40,933
Excess fund balance	<u>105,041</u>	<u>94,216</u>	<u>(10,825)</u>
Total annuity fund balance	<u>\$105,041</u>	<u>\$135,209</u>	<u>\$ 30,168</u>
Total liabilities and Annuity Fund Balance	<u>\$105,041</u>	<u>\$545,140</u>	<u>\$440,099</u>

The increase in assets, liabilities and annuity fund balance reflects an increase in the total number of annuities in force. The Fund commenced issuing annuities on July 21, 2015, increasing to a total of 7 annuities in force with annual payment amounts of \$50,360 as of December 31, 2018.

The Fund's admitted assets, as of December 31, 2018, were invested mainly in stocks (79.57%).

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 2018 annual statement, the Fund reported 79.57% of its admitted assets invested in units of various Catholic United Investment Trust funds. The Fund's current concentration in this trust could make it highly unlikely that the Fund's other assets can provide a variability to offset the risks inherent in the trust.

Based upon the above-noted concentration in the securities of one institution, 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 Investment Strategy Statement'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 the assets of any one institution to ten percent of admitted assets would reasonably assure that the risks in investment in that institution are offset by the rest of the portfolio.

5. TREATMENT OF ANNUITANTS

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 the nine (9) gift annuity agreements issued by the Fund in New York during the examination period noted that six (6) annuity agreements issued used forms that did not contain form numbers. The remaining three (3) annuity agreements issued used forms that contained wording which deviated from the annuity agreements forms filed with the Superintendent.

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.

6. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations and comment 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's board of trustees review the activities of the Fund at least annually and note the same in the minutes.</p> <p>The Fund's board does not review the activities of the Fund at least annually and note the same in the minutes.</p>
B	<p>The Fund has not issued any gift annuities since receiving its permit.</p> <p>The Fund began issuing gift annuities from July 21, 2015.</p>
C	<p>The examiner recommends that the Fund contract with a licensed bank or trust company to serve as the Fund's custodian for the Fund's securities.</p> <p>The Fund contracts with a licensed bank to serve as custodian.</p>
D	<p>The examiner recommends that the Fund prepare its annual statements according to the Department's instructions.</p> <p>The examiner's review of the 2018 annual statement did not reveal any significant reporting issues.</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 investments and note such approvals in the minutes.	4
B	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 Investment Strategy Statement's risk, return, and time horizon parameters. .	6
C	The Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms that differed from the gift annuity forms that were filed with the Superintendent.	7
D	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

Respectfully submitted,

/s/
Adelia Gbadamosi
Senior Insurance Examiner

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

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

/s/
Adelia Gbadamosi

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. 31907

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, Acting 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:

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
FOUNDATION OF THE ROMAN CATHOLIC DIOCESE OF BUFFALO, 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 16th day of May, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By:

Mark McLeod

MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

