



**REPORT ON EXAMINATION
OF THE
SEGREGATED GIFT ANNUITY FUND
OF THE
AMERICAN LEPROSY MISSIONS, INC.**

AS OF December 31, 2019

EXAMINER: Adelia Gbadamosi

DATE OF REPORT: July 14, 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 directors	4
	D. Third-party payment service provider	4
4.	Investment review	5
	A. Investment policy statement	5
5.	Assets and liabilities summary	7
6.	Treatment of annuitants	8
7.	Annual statement reporting	9
8.	Prior report summary and conclusions	11
9.	Summary and conclusions	12

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

September 29, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 32072, dated April 16, 2020 and annexed hereto, an examination has been made into the condition and affairs of the Segregated Gift Annuity Fund of the American Leprosy Missions, Inc. The Fund's home office is located at 1 ALM Way, Greenville, SC 29601.

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

1. EXECUTIVE SUMMARY

The examiner recommends that the Investment Strategy Statement be approved by the board of directors. (See item 4A of this report)

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials. (See item 4A of this report)

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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. (See item 4A of this report)

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 6 of this report)

The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement. (See item 7 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 American Leprosy Missions Segregated Annuity Fund (the "Fund") through which American Leprosy Missions (the "Corporation") 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 College 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 violation and recommendation 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 American Leprosy Missions, Inc. is organized for the purpose of freeing the world of leprosy, by serving as a channel of the love of Christ to people affected by leprosy, helping them to be healed in body and spirit and to be restored to lives of dignity and usefulness within their community. The Corporation established the Fund to issue gift annuity agreements in return for gifts from donors in 1924. The Superintendent of Insurance granted to the Corporation a Charitable Annuity Society special permit on May 24, 1943.

B. Structure

The management of the Corporation and the Fund and all of its affairs and property are entrusted to a board of directors.

C. Assets under the Board of Directors

As of the June 30, 2019 IRS Form 990, the Corporation's Board of Directors oversaw an endowment comprising \$245,914 in total assets. The Corporation held \$10,549,992 in total investments as well as \$4,967,396 in savings and temporary cash investments. The Fund, as of December 31, 2019, held total admitted assets of \$913,210.

D. Third-Party Payment Service Provider

UBS Financial Services, Inc. ("UBS") is the Fund's custodian and investment manager. The Corporation outsources its investments and benefit payments to third parties. UBS handles the investments according to the investment guidelines. PG Calc handles the benefit payments to annuitants and prepares the annual statements.

4. INVESTMENT REVIEW

A. Investment Policy Statement

New York Estate Powers and Trust Law § 11-2.3(b)(3)(A) requires trustees to “pursue an overall investment strategy to enable the trustee[s] to make appropriate present and future distributions to or for the benefit of the beneficiaries under the governing instrument, in accordance with risk and return objectives reasonably suited to the entire portfolio.”

New York Not-for-Profit Corporation Law § 552(e)(2) requires institutions to adopt “an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.” New York Not-for-Profit Corporation Law § 552(f) provides that each “institution shall adopt a written investment policy setting forth guidelines on investments ... and delegation of management and investment functions in accord with the standards of this article.”

Interrogatory 18 in the Fund’s filed 2019 annual statement states the following:

“Has the board or other governing body of the segregated gift annuity fund adopted an Investment Strategy Statement specifying guidelines for the investment of the fund’s assets?”

The examiner’s review of the Fund’s filed 2019 annual statement showed that the Fund answered “yes” to interrogatory 18. The examiner’s review of the Fund’s Investment Strategy Statement (“ISS”) revealed that the board did not approve the ISS. Therefore, the Fund failed to answer interrogatory 18 in the 2019 annual statement correctly.

The examiner recommends that the Investment Strategy Statement be approved by the board of directors.

UBS is the Fund’s investment adviser and custodian.

The Corporation prepared and provided a form investment policy statement (“IPS”) to the Fund. The Fund adopted that form as its IPS.

The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials.

The examiner's review of the Fund's Investment Strategy Statement showed that it does not contain reference to the prudent investor standard, as specified in Section 1110(b) of the New York Insurance Law.

The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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.

5. 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>\$856,827</u>	<u>\$913,210</u>	<u>\$ 56,383</u>
Liabilities	<u>\$269,545</u>	<u>\$181,649</u>	<u>\$ (87,896)</u>
Minimum required fund balance	\$ 26,955	\$ 18,165	\$ (8,790)
Excess fund balance (surplus)	<u>560,327</u>	<u>713,396</u>	<u>153,069</u>
Total annuity fund balance	<u>\$587,282</u>	<u>\$731,561</u>	<u>\$144,279</u>
Total liabilities and annuity fund balance	<u>\$856,827</u>	<u>\$913,210</u>	<u>\$ 56,383</u>

The increase in assets and annuity fund balance reflects the change in the value of investments whereas the decrease in liabilities reflects the decrease in annuities. Annuities decreased from 93 with annual payment amounts of \$30,878 as of December 31, 2014 to a total of 66 with annual payment amounts of \$20,929 as of December 31, 2019.

The Fund's admitted assets, as of December 31, 2019, were invested mainly in bonds (18.43%) and equity securities (79.13%).

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

7. ANNUAL STATEMENT REPORTING

The instructions for lines 20 and 21 of the 2018 annual statement state the following,

“Line 20.1 “Current Year” Column: A minimum required fund balance equal to 10% of the net reserve reported at Line 12 **must be reported at this Line**. Refer to Section 1110(b) of the New York Insurance Law.

“Prior Year” Column: Report prior year’s minimum required fund balance.

Line 20.2 “Current Year” Column: Line 20.3 minus Line 20.1.

“Prior Year” Column: Report prior year’s excess fund balance.

Line 20.3 Total Annuity Fund Balance:

“Current Year” Column: The difference of the Total Assets (Page 2, Line 9) and Total Liabilities (Page 2, Line 19). **This amount must equal to the sum of Lines 20.1 and 20.2, as well as the amount on Page 3, Line 15.**

“Prior Year” Column: Report prior year’s Total Annuity Fund Balance.

Line 21 “Current Year” Column: Equals the sum of Line 19 and Line 20.3. **Must equal Page 2, Line 9.**

“Prior Year” Column: Report prior year’s Total Liabilities and Annuity Fund Balance.”

In the Fund’s filed 2018 annual statement, it reported the following in the prior year on Lines 19, 20.1, 20.2, and 20.3 as well as line 21:

19. Total Liabilities	206,818
20.1 Minimum required fund balance	22,024
20.2. Excess fund balance	589,992
20.3 Total Annuity Fund Balance	612,026
21. Total Liabilities and Annuity Fund Balance	818,844

The following amounts should have been reported in lines 19 through 21, as reported in the 2017 annual statement:

19. Total Liabilities	206,818
20.1 Minimum required fund balance	20,682
20.2. Excess fund balance	647,326
20.3 Total Annuity Fund Balance	668,008
21. Total Liabilities and Annuity Fund Balance	874,826

The instructions for Exhibit 1 of the 2017 and 2018 annual statements states the following:

“Line 3

- Column 4 should equal the amount reported for Totals - Cash on Deposit in Schedule C, Column 5.
- Column 5 should equal the amount reported for Totals in Schedule A, Part 1, Column 8.
- Column 6 should equal the sum of:
 - (1) the amount reported for Totals in Schedule A, Part 2, Column 8, **and**
 - (2) the amount reported for Totals in Schedule A, Part 3, Column 8.”

In the Fund’s filed 2017 annual statement, it reported \$1,495 on line 3, column 5 of Exhibit 1 of the annual statement. It reported \$0 in Schedule A, Part 1, Column 8. Similarly, the Fund reported \$1,437 on line 3, column 5 of Exhibit 1 of the 2018 annual statement. The Fund reported \$0 in Schedule A, Part 1, Column 8 for 2018. The Fund should have reported \$1,495 in Schedule A, Part 1, Column 8 for 2017 and \$1,437 in Schedule A, Part 1, Column 8 for 2018.

The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violation and recommendation 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 Fund violated Section 1110(a) of the New York Insurance Law by using gift annuity agreement forms which differed from the gift annuity agreement files that were filed with the superintendent.</p> <p>The Fund no longer issues gift annuities.</p>
B	<p>The examiner recommends that the Fund file with the Superintendent any gift annuity agreement forms which were used and not previously filed with the Superintendent.</p> <p>The Fund no longer intends to issue gift annuities; hence, no new forms were submitted.</p>

9. SUMMARY AND CONCLUSIONS

Following are the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that the Investment Strategy Statement be approved by the board of directors.	5
B	The examiner recommends that the Fund review at least annually its written investment policy setting forth guidelines on investments and delegation of management and the conformance of its delegees to that investment policy and statutory guidance and that it memorialize those reviews in either board minutes or materials	5
C	The examiner recommends that the Fund adopt an Investment Strategy Statement that refers to the prudent investor standard as defined in Section 11-2.3 of the Estates, Powers and Trusts Law, which standard, as specified in Section 1110(b) of the New York Insurance Law, governs the manner in which the required admitted assets of a segregated gift annuity fund shall be invested. 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.	6
D	The examiner recommends that the Fund prepare its filed annual statements in accordance with the instructions for completing the New York State Segregated Gift Annuity Fund Annual Statement.	10

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:

ADELIA GBADAMOSI

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE
AMERICAN LEPROSY MISSIONS, 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 April, 2020

LINDA A. LACEWELL
Superintendent of Financial Services

By:



MARK MCLEOD
DEPUTY CHIEF - LIFE BUREAU

