



**REPORT ON EXAMINATION  
OF THE  
SEGREGATED GIFT ANNUITY FUND  
OF THE  
HOBART AND WILLIAM SMITH COLLEGES  
AS OF December 31, 2017**

**EXAMINER: Chong Kim**

**DATE OF REPORT: August 10, 2018**

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

REPORT ON EXAMINATION

OF THE

SEGREGATED GIFT ANNUITY FUND

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CHONG KIM

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KATHY HOCHUL  
Governor



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ADRIENNE A. HARRIS  
Superintendent

February 1, 2022

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

Madam:

In accordance with instructions contained in Appointment No. 31727, 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 Hobart and William Smith Colleges. The Fund's home office is located at 337 Pulteney Street, Geneva, NY 14456.

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

## 1. EXECUTIVE SUMMARY

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 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 5 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)

## 2. SCOPE OF EXAMINATION

This Scope of Examination summarizes the nature of the Superintendent of the Department of Financial Services' (the "Department" or "DFS") examination and assessment of the Hobart and William Smith Colleges Segregated Annuity Fund (the "Fund") through which the Hobart and William Smith Colleges (the "College") provides annuity benefits.

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).

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 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, 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 recommendations contained in the prior report on examination. The results of such review are contained in item 7 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 Hobart and William Smith Colleges was chartered in 1825 and are coordinate colleges. Hobart College for men and William Smith College for women are selective, residential liberal arts institutions. The College shares a single curriculum, campus, faculty and central administration, but have separate deans, student governments, residences, and athletics organizations. In 2010, the Board of Trustees voted to change the name to the Hobart and William Smith Colleges from the Colleges of Seneca. The College established the Fund to issue gift annuity agreements in return for gifts from donors in 1989. The Superintendent of Insurance granted to the College a Charitable Annuity Society special permit on March 17, 1993.

#### B. Structure

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

#### C. Assets under the Board of Trustees

As of the May 31, 2017, audited financial statement, the College's Board of Trustees oversaw an endowment comprising \$198,893,217 in total assets. The Fund, as of December 31, 2017, held total admitted assets of \$1,445,963.

#### D. Third Party Payment Service Provider

State Street Bank and Trust Company of Boston, Massachusetts ("State Street") is the Fund's custodian and investment manager. The Fund has outsourced the recordkeeping, reporting, custodianship, and investment advisory services to State Street.

#### 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) calls for “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) states 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.”

The examiner’s review of the Fund’s Investment Strategy Statement showed that it did 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 balances during the period under review:

	<u>December 31,</u> <u>2012</u>	<u>December 31,</u> <u>2017</u>	<u>Increase</u> <u>(Decrease)</u>
Admitted assets	<u>\$1,545,733</u>	<u>\$1,445,963</u>	<u>\$(99,770)</u>
Liabilities	<u>\$1,066,427</u>	<u>\$ 969,924</u>	<u>\$(96,503)</u>
Minimum required fund balance	\$ 106,643	\$ 96,992	\$ (9,651)
Excess fund balance (surplus)	<u>372,663</u>	<u>379,047</u>	<u>6,384</u>
Total annuity fund balance	<u>\$ 479,306</u>	<u>\$ 476,039</u>	<u>\$(3,267)</u>
Total liabilities and annuity fund balance	<u>\$1,545,733</u>	<u>\$1,445,963</u>	<u>\$(99,770)</u>

The decrease in assets, liabilities and annuity fund balance is mainly due to reserve releases based on the termination of annuities throughout the examination period. The number of annuities increased from 77 as of December 31, 2012 to a total of 83 as of December 31, 2017. However, the amount of annual payments decreased from \$142,142 as of December 31, 2012 to \$128,804 as of December 31, 2017.

The Fund's admitted assets, as of December 31, 2017, were mainly invested in equity securities (99.13%).

## 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. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following is the recommendation in the prior report on examination and the subsequent actions taken by the Fund in response to the recommendation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Fund's name that appears on the special permit issued in accordance with Section 1110 of the New York Insurance Law be included on all annuity benefit payment checks.</p> <p>The Fund adhered to the recommendation by using the Fund's name that appears on the board resolution issued in accordance with Section 1110 of the New York Insurance Law.</p>

## 8. SUMMARY AND CONCLUSIONS

Following is the recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	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

Respectfully submitted,

\_\_\_\_\_/s/  
Chong Kim  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Chong Kim

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

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:

**CHONG KIM**

as a proper person to examine the affairs of the

**SEGREGATED GIFT ANNUITY FUND OF THE  
HOBART AND WILLIAM SMITH COLLEGES**

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

