

STATE OF WASHINGTON

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MIKE KREIDLER
STATE INSURANCE COMMISSIONER



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)	No. 08-141
)	
The Financial Examination of)	FINDINGS, CONCLUSIONS,
NORTHWEST BAPTIST FOUNDATION)	AND ORDER ADOPTING REPORT
)	OF EXAMINATION

A Domestic Charitable Gift Annuity Issuer.

BACKGROUND

An examination of the financial condition of **NORTHWEST BAPTIST FOUNDATION** (NWBF) as of December 31, 2006, was conducted by examiners of the Washington State Office of the Insurance Commissioner (OIC). NWBF holds a Washington certificate of exemption to issue charitable gift annuities. This examination was conducted in compliance with the laws and regulations of the state of Washington and in accordance with the procedures promulgated by the National Association of Insurance Commissioners and the OIC.

The examination report with the findings, instructions, and recommendations was transmitted to NWBF for its comments on August 26, 2008. NWBF's response to the report, and OIC's response to NWBF's response, are attached to this order only for the purpose of a more convenient review of the response.

The Commissioner or a designee has considered the report, the relevant portions of the examiners' work papers, and the submissions by NWBF.

Subject to the right of NWBF to demand a hearing pursuant to Chapters 48.04 and 34.05 RCW, the Commissioner adopts the following findings, conclusions, and order.

FINDINGS

Findings in Examination Report. The Commissioner adopts as findings the findings of the examiners as contained in pages 1 through 6 of the report.

CONCLUSIONS

It is appropriate and in accordance with law to adopt the attached examination report as the final report of the financial examination of **NORTHWEST BAPTIST FOUNDATION** (NWBF) and to order NWBF to take the actions described in the Instructions and Comments and Recommendations sections of the report. The Commissioner acknowledges that NWBF may have implemented some of the Instructions and Comments and Recommendations prior to the date of this order. The Instructions and Comments and Recommendations in the report are appropriate responses to the matters found in the examination.

ORDER

The examination report as filed, attached hereto as Exhibit A, and incorporated by reference, is hereby ADOPTED as the final examination report.

NWBF is ordered as follows, these being the Instructions and Comments and Recommendations contained in the examination report on pages 1-2.

1. NWBF is ordered to legally and physically segregate its charitable gift annuity investments to ensure its compliance with RCW 48.38.020(2)(a). Instruction 1, Examination Report, page 1.
2. NWBF is ordered to report the statutory reserve calculated by the actuary pursuant to RCW 48.38.010(10)(c). They are also ordered to increase this amount by an additional 10% in compliance with RCW 48.38.020(3)(c). Instruction 2, Examination Report, page 2.
3. It is ordered that NWBF consider requiring officers, employees, and the members of the Board of Directors (BOD) to submit a conflict of interest questionnaire annually to the BOD. The BOD minutes should also document the review and disposition of all conflicts disclosed. Comments and Recommendation 1, Examination Report, page 2.

IT IS FURTHER ORDERED THAT, NWBF file with the Chief Examiner, within 90 days of the date of this order, a detailed report specifying how NWBF has addressed each of the requirements of this order.

ENTERED at Olympia, Washington, this 8th day of October, 2008.

A handwritten signature in black ink, appearing to read "Mike Kreidler", written in a cursive style.

MIKE KREIDLER
Insurance Commissioner



NORTHWEST BAPTIST FOUNDATION

3200 NE 109th Avenue • Vancouver, WA 98682-7749

Phone (360) 882-2250 • Fax (360) 882-2252

www.nwbaptistfdn.org

RECEIVED

SEP 17 2008

INSURANCE COMMISSIONER
COMPANY SUPERVISION

September 11, 2008

James T. Odiome, CPA, JD
Deputy Insurance Commissioner
Company Supervision Division
State of Washington, Office of Insurance Commissioner
5000 Capitol Blvd.
Tumwater, WA 98501

VIA UPS OVERNIGHT DELIVERY
TRACKING #1Z9044410192972674
VIA US POSTAL SERVICE

RE: Northwest Baptist Foundation Financial Examination Report, December 31, 2006

Dear Mr. Odiome:

The Northwest Baptist Foundation (NWBF) received and reviewed your letter dated August 26, 2008 and the accompanying draft report of examination. We understand the report will be finalized and made public on September 17, 2008. With that in mind, we have telephoned your office, left a message, but have not received a reply.

Following are our comments and questions regarding the draft report:

I. Assets of the Separate Reserve Fund.

Page one of the report, Item #1 indicates that NWBF was not in compliance with the requirements of RCW 48.38.020(2)(a) requiring the annuity reserve fund to be held in a legally and physically segregated account. Based upon our discussions with the auditors, we agree that our maintained reserve fund does not meet the statutory requirements, and we are therefore in the process of establishing this as a separate fund that meets the requirements.

However, we wish to address the following two points:

- a) This error on our part was made pursuant to communication received from Jim Tompkins of your office on December 8, 2003. A copy of his e-mail is attached for your reference. In his e-mail he indicated we did not need to retain a different institution to manage the reserve fund as long as the assets are separated. Based upon our discussions with the auditors, we realize that we misunderstood Mr. Tompkins' instructions to us. We request your report acknowledges that our error was due to a misunderstanding of communication we received from your office, and that a statement to this effect is presented.



- b) RCW 48.38-020 (2) (c) requires that the segregated reserve fund not be liable for any debts of the issuer, except for the charitable gift annuities. Opening a separate bank or brokerage account probably does not, by itself, shield these assets from general creditors. As such, what other steps are required as we segregate these assets in order to be in compliance with this section of the code?

2. Statutory Reserves.

Page one, Item #2 states NWBF did not have sufficient assets in its reserve account. We believe this to be a misstatement of fact. As discussed above, it was true that the reserve was not properly segregated, but we did maintain a reserve. The maintained reserve had more than the required assets. Page one states the total required in the reserve account was \$190,490. Page four of your report properly states that the reserve fund held assets valued at \$258,386, or \$67,896 more than required. The statement that NWBF maintained a reserve fund in the amount is \$135,650 is incorrect.

Additional confusion on this matter seems to stem from the two separate and distinct items which are both directly related to the charitable gift annuities:

Required reserve fund: The first is the required reserve fund, which is a pool of assets set aside for the purpose of meeting the future required payments of the annuities. By statute, this reserve fund must be funded with assets in an amount that exceeds the estimated present value of future payments under the annuity agreements.

Estimated liability: The second is the estimated liability for gift annuities, presented according to Generally Accepted Accounting Principles on the Statement of Financial Position. It is this estimated liability, and not the reserve fund, that was reported in the Financial Statements as \$135,650 as of December 31, 2006.

It is our contention that these two items are separate and distinct, and not necessarily equal in amount for the following reasons:

- a) Both the computation of the required reserves and the estimated liability are estimates based upon actuarial and economic assumptions.
- b) The reserve fund computations are based upon actuarial and economic assumptions specified by RCW. Similarly, other states have reserve fund requirements, based upon assumptions contained in their law.
- c) The liability presented in the financial statements is an accounting estimate and is not necessarily based upon the same actuarial and economic assumptions contained in any state's law, but based upon management's assumptions, which are further reviewed and agreed to by the independent financial auditors.

- d) If it were required to report the estimated liability in an amount that agrees to a state's required reserve fund, then the issuer would be forced to issue separate audits for each state since each state's reserve requirements are different. That would not be reasonable.
- e) By definition, Washington's required reserve fund is 10% more than the estimated liability. So, if the liability reported on the financial statement is equal to the reserve fund, the Statement of Financial Position would be overstating its liability for gift annuities by 10%.
- f) Your report refers to RCW 48.38.020 which provides guidance for the required reserve fund, but is silent about accounting presentation.

Please note that, as requested by the auditors, we have expanded our footnote disclosures related to the reserve fund to include not only the balance in the reserve fund, but also the amount required to be in the reserve fund by each state in which we have issued charitable gift annuities. Hopefully, this will help to eliminate some of the confusion.

Based upon this information, we request that this section be removed from your report, and that the financial amounts reported on page 3 and page 6 be restored to their original amounts.

3. Statement of Actuarial Opinion.

On page 4, the section entitled "Statement of Actuarial Opinion" indicates that the Actuary's report did not include the required 10% reserve. Please review the Actuarial reports we provided. If they are not in compliance what can be done in the event that the actuary is not willing to change his report? If they are in compliance, please make a statement to that effect.

In review, the following are the items we request your office to consider:

1. Assets of the Separate Reserve Fund.

- a) We request your report acknowledges that our error was due to a misunderstanding of communication we received from your office, and that a statement to this effect is presented.
- b) What other steps are required as we segregate these assets in order to be in compliance with this section of the code?

2. Statutory Reserves. We request that this section be removed from your report, and that the financial amounts reported on page 3 and page 6 be restored to their original amounts.

3. Statement of Actuarial Opinion. If the Actuarial reports we provided are not in compliance what can be done in the event that the actuary is not willing to change his report? If they are in compliance, please make a statement to that effect.

As you are aware, the NWBF has served the needs of the Northwest for over 52 years with a spotless record. We take these matters very seriously and have consistently complied with all applicable laws and regulations. We appreciate, respect and invite accountability and transparency. Accordingly, we desire a complete evaluation with full understanding of the facts, and hope that both our offices can reconcile these misunderstandings.

Thank you for your attention to these matters. We await your timely response.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas R. Hixson". The signature is fluid and cursive, with a large initial "T" and "H".

Thomas R. Hixson
President

TRH/kmi
Enclosure

Clint Overall

From: JimT@OIC.WA.GOV
Sent: Monday, December 08, 2003 8:45 AM
To: Clint Overall
Cc: KrisG@OIC.WA.GOV
Subject: RE: Gift annuity reserve compliance

Dear Mr. Overall:

You do not need to retain a different institution to manage the annuity reserve fund. Your organization may still do this task. What is required is that the assets for this fund are separate from the other assets of the organization. In other words the assets that make up the annuity reserve fund must be assets that are solely for the annuity reserve fund and not commingled with other assets of the organization. For example, if an annuity reserve fund of \$100,000 is required, then there must be assets that constitute such amount invested in a manner that is separate and distinct from other assets of the organization. It would not be sufficient to just say that the organization has \$500,000 invested in ABC Mutual Fund and that \$100,000 of it is for the annuity reserve fund.

Jim Tompkins
Assistant Deputy Commissioner
Company Supervision Division
(360) 725-7218

-----Original Message-----

From: Clint Overall [mailto:ClintO@nwbaptist.org]
Sent: Friday, December 05, 2003 6:40 PM
To: Jim Tompkins
Subject: Gift annuity reserve compliance

Mr. Tompkins:

I am with the Northwest Baptist Foundation (NWBF). We recently received a Certificate of Exemption (No. 210) from the Office of Insurance Commissioner. I am happy to report that we have already secured one gift annuity and will most likely secure another in the coming week.

In preparation for meeting the various requirements necessary to maintain our Certificate of Exemption we noted that RCW 48.38.020(2)(a) requires that the assets of the separate reserve fund shall be held legally and physically segregated from the other assets of the NWBF. We are unsure of how to comply with this requirement. Is it necessary for the reserve fund to be managed by another institution? If not, is there a specific way to manage our reserve fund so that it is in compliance with the statute? If it needs to be outsourced for management is there a specific way to title the account to ensure compliance with RCW 48.38.020(2)(c)? And if we are able to manage our reserve fund how do we ensure compliance with RCW 48.38.020(2)(c)?

In the past I have spoken with Kris Graap but I understand his voice mail to indicate he is on vacation and that any questions are to be directed to you.

I would greatly appreciate any assistance you can provide. Thank you in advance for your attention to this matter.

Clint Overall
Trust and Estate Planning Officer
Northwest Baptist Foundation
3200 NE 109th Ave.
Vancouver, Washington 98682
360.882.2250

1/29/2004

Odiorne, Jim (OIC)

From: McNaughton, Pat (OIC)
Sent: Wednesday, September 17, 2008 2:55 PM
To: 'tomh@nwbaptist.org'
Cc: Jordan, Mike (OIC); Campbell, Susan (OIC); Gabriel, Orlando (OIC); Jansen, Colleen (OIC)
Subject: NW Baptist Foundation - Charitable Gift Annuity Financial Examination Report

Dear Mr. Hixon:

The following is in response to your letter dated September 11, 2008 to James T. Odiorne, Deputy Commissioner, Washington State Office of the Insurance Commissioner, regarding the Northwest Baptist Foundation CGA Examination Report, as of December 31, 2006:

1. Separate Reserve Fund (Asset) - \$256,386

In answer to your question "What other steps are required as we segregate these assets, (these assets support the aggregate reserve fund, which is a liability), in order to be in compliance with this section of the code ?" - we believe that no other steps are required other than those indicated in the email from Jim Tompkins and our instruction in the examination report, which is the same as Mr. Tompkins's email. CGA assets need to be held in the name of the exemption holder, in a non-encumbered custodial account specifically designated for CGA assets which is not commingled with any other assets of the organization. This custodial account may be maintained in the same financial institution or with the same broker or custodian as the other accounts owned by the exemption holder.

2. CGA Aggregate Reserves (Liability) - \$190,490

In response to your request to remove our instruction #2 regarding your statutory aggregate reserves, the examination finding is accurate, however we would like to offer the following clarification. Our instruction refers to RCW 48.38.020(3) which provides instructions regarding the maintenance and reporting of a liability of the CGA (Aggregate Reserves). This section of the RCW does not provide instruction for the asset (Separate Reserve Fund). Aggregate Reserves (liability) for contracts should be an amount not less than the amount of reserves calculated according to the standards set forth in RCW 48.74.030 for other annuities with no cash settlement options, plus an additional 10%. This aggregate reserve (liability) was calculated by your actuary to be \$173,173. The additional 10% of \$17,317 should be added by you and is not required to be included in the actuarial opinion. Your total Statutory CGA aggregate reserve should be \$190,490. This is the amount that should have been maintained in the accounts of the CGA exemption holder and reported to the OIC on your Annual Report. In addition, when CGA exemption holders prepare and submit the annual report to the us, Generally Accepted Accounting Principles (GAAP) are not used in reporting to the OIC.

3. Actuarial Opinion

As indicated above, the additional 10% is not required to be added by your actuary. This needs to be done by the Company per RCW 48.38.202(3).

Thank you for your response to the Report draft. No changes will be made to the Report based on your responses and we plan to adopt the report in compliance with RCW 48.03.040 - Examination Reports.

If you have any questions, or would like further information, please feel free to call or email me.

10/7/2008

PATRICK H. MCNAUGHTON
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