

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

NEW YORK CITY

TRANSIT POLICE SUPERIOR OFFICERS' VARIABLE SUPPLEMENTS FUND

AS OF

JUNE 30, 1999

DATE OF REPORT:

MARCH 7, 2001

EXAMINER:

EDWARD J. TASKER

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

March 7, 2001

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 21607, dated August 28, 2000, and annexed hereto, an examination has been made into the condition and affairs of the Transit Police Superior Officers' Variable Supplements Fund, hereinafter referred to as "the Fund" or "TPSOVSF," located at 340 Jay Street, Brooklyn, New York, 11201.

Wherever "Department" appears in this report, it refers to the State of New York Insurance Department.

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

1. EXECUTIVE SUMMARY

The examiner recommends that a systematic procedure be developed for providing funds in order to avoid future disruptions in benefit payments as the assets of the Fund are depleted. (See item 4B of this report)

The examiner's review of the treatment of members and beneficiaries 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 5 of this report)

The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its custodian. (See item 6 of this report)

The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its bank. (See item 7 of this report)

The Fund violated Section 307(a)(1) of the New York Insurance Law by filing its 1999 annual statement in August 2000, five months after the due date. (See item 8A of this report)

The Fund violated Section 136.4(c) of Department Regulation No. 85 by failing to maintain a description of the contents of each account by debit and credit. (See item 8B of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of June 30, 1994. This examination covers the period from July 1, 1994 to June 30, 1999. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 1999 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 June 30, 1999 to determine whether the Fund's 1999 filed annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification and utilized examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Fund history
- Management and control
- Growth of the Fund
- Accounts and records
- Financial statements
- Member benefits

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 THE FUND

A. History

The Fund was established effective July 1, 1987 by Chapter 844 of the laws of 1987 which amended the Administrative Code of the City of New York (“Administrative Code”) by the addition of Section 13-192. A separate Transit Police Officers’ Variable Supplements Fund was also established by the addition of Section 13-191 and is covered under a separate report on examination.

The Fund consists of monies which are paid to it from the New York City Employees’ Retirement System (“NYCERS”) pursuant to the provisions of Section 13-193 of the Administrative Code and all other monies, received from any other sources, pursuant to law. The Fund is not construed to be a pension or retirement system or fund. During the period under examination, basic pension benefits were provided to transit police superior officers through their membership in NYCERS. The Fund provides supplemental benefits to transit police superior officers who are service retirees of NYCERS who retired on or after July 1, 1987 with 20 or more years of service. These payments are guaranteed by New York City, however, the New York State Legislature has reserved to itself and the State of New York the right to amend, modify or repeal the Variable Supplements Funds and the payments they provide. Effective April 30, 1995, the transit police force (consisting of transit police officers and superior officers) was merged into the New York City Police Department. As a result of the merger, the active members of the transit police force were transferred from NYCERS to the New York City Police Department, Subchapter Two Pension Fund and will, if eligible, be covered at retirement under the terms of the police officers’ or police superior officers’ variable supplements fund. Only inactive members of the transit police (retirees, vested terminations, etc.) remain in the Fund.

Under Section 13-192 of the Administrative Code, the Fund is subject to the supervision of the Department which may examine its affairs with the same powers and jurisdiction as are applicable to a life insurance company under Article 3 of the New York Insurance Law. The Fund is also subject to assessment for expenses pursuant to Section 313 of the New York Insurance Law.

B. Management

The Fund is administered independently by a board of trustees and has the powers and privileges of a corporation. Members of the board are trustees of the monies the Fund receives and have the power to invest the same in accordance with the limitations and restrictions imposed on savings banks. The Comptroller of the City of New York (the “Comptroller”) is the custodian of the assets and also provides certain administrative services to the Fund.

The members of the board of trustees as of June 30, 1999, were as follows:

<u>Name</u>	<u>Title</u>
Adam L. Barsky	Director, Office of Management and Budget
Alan G. Hevesi	Comptroller, City of New York
Joseph J. Lhota	Deputy Mayor for Operations

The examiner’s review of the minutes of the meetings of the board of trustees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Fund as of June 30, 1999:

<u>Name</u>	<u>Title</u>
Adam L. Barsky	Chairman
Jane Levine	Secretary
John J. Murphy	Executive Secretary
Robert C. Murphy	Actuary

C. Contingent Liabilities

The Fund is the defendant in a lawsuit whereby the plaintiffs claim that the exclusion of disability retirees from Fund benefits violates the American with Disabilities Act (“ADA”).

Past court decisions have supported the Fund’s position. However, if the suit is successful, there would be an increase in the Fund’s liabilities.

4. FINANCIAL STATEMENTS

The following statements show the comparative statement of income and disbursements for the period since the prior examination and the assets and liabilities as of June 30, 1994 and June 30, 1999.

A. STATEMENT OF INCOME AND DISBURSEMENTS FISCAL YEAR ENDED JUNE 30,

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
Amount of ledger assets at end of previous year	\$ <u>14,011,033</u>	\$ <u>15,176,841</u>	\$ <u>14,631,758</u>	\$ <u>13,464,859</u>	\$ <u>12,119,246</u>
<u>Income</u>					
<u>From Interest</u>					
Gross interest on collateral loans	\$ 0	\$ 0	\$ 0	\$ 3,085	\$ 8
Gross interest on bonds	838,117	1,000,257	794,176	799,324	711,713
Received from NYCERS	2,957,141	289,963	0	0	0
Gross profit on sale or maturity of bonds	0	1,731	27,623	20,626	0
Gross increase, by adjustment on book value of bonds	5,414	17,422	40,859	7,713	43
Prior fiscal year adjustment – investment	<u>0</u>	<u>10</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total income	\$ <u>3,800,672</u>	\$ <u>1,309,383</u>	\$ <u>862,658</u>	\$ <u>830,748</u>	\$ <u>711,764</u>
Total	<u>\$17,811,705</u>	<u>\$16,486,224</u>	<u>\$15,494,416</u>	<u>\$14,295,608</u>	<u>\$12,831,010</u>

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
<u>Disbursements</u>					
Payment on account of retirements:					
Annual or other periodic payments	\$ 0	\$ 1,850,626	\$ 2,023,125	\$ 2,166,577	\$ 2,293,953
Other benefit payments	2,631,250	0	0	0	0
Administrative expenses, per Schedule H	0	0	1,992	0	0
Gross loss on sale or maturity of bonds	3,614	0	0	1,201	0
Gross decrease, by adjustment in book value of bonds	<u>0</u>	<u>3,840</u>	<u>4,440</u>	<u>8,584</u>	<u>10,171</u>
Total disbursements	\$ <u>2,634,863</u>	\$ <u>1,854,466</u>	\$ <u>2,029,557</u>	\$ <u>2,176,362</u>	\$ <u>2,304,124</u>
Amount of ledger assets at end of current year	\$ <u>15,176,841</u>	\$ <u>14,631,758</u>	\$ <u>13,464,859</u>	\$ <u>12,119,246</u>	\$ <u>10,526,886</u>

B. STATEMENT OF ASSETS AND LIABILITIES
FISCAL YEAR ENDED JUNE 30,

	<u>1994</u>	<u>1999</u>	<u>Increase (Decrease)</u>
<u>Assets</u>			
<u>Ledger assets</u>			
Book value of bonds	\$14,009,287	\$10,430,537	\$(3,578,750)
Cash on deposit not on interest	<u>1,745</u>	<u>96,348</u>	<u>94,603</u>
Total ledger assets	<u>\$14,011,032</u>	<u>\$10,526,885</u>	<u>\$(3,484,147)</u>
<u>Non-ledger assets</u>			
Interest due and accrued on bonds	\$ 300,322	\$ 125,967	\$ (174,355)
Due from NYCERS	2,957,141	0	(2,957,141)
Due from TPO	<u>0</u>	<u>32,500</u>	<u>32,500</u>
Total non-ledger assets	<u>\$ 3,257,463</u>	<u>\$ 158,467</u>	<u>\$(3,096,996)</u>
Total admitted assets	<u>\$17,268,495</u>	<u>\$10,685,352</u>	<u>\$(6,583,143)</u>
<u>Liabilities</u>			
Present value of benefits payable on account of beneficiaries now drawing allowances:			
Service retirement	\$53,400,030	\$43,415,467	\$(9,984,563)
Excess of admitted assets over total net reserves and all other liabilities	<u>(36,131,535)</u>	<u>(32,730,113)</u>	<u>3,401,422</u>
Total	<u>\$17,268,495</u>	<u>\$10,685,354</u>	<u>\$(6,583,141)</u>

For the New York City Pension Plans, the item “Excess of admitted assets over total net reserves and all other liabilities” (referred to in the remainder of this section as “the Excess”) is a relatively insignificant amount. It arises from differences between the valuation methods for “admitted assets” (the asset value used in the annual statement) and “actuarial value of assets” (the asset value used for computing employer contributions), and does not represent a surplus or deficit in the pension plans.

With respect to the TPSOVSF, the Excess is much more significant. The TPSOVSF consists solely of retired members, all active transit police officers having been transferred from NYCERS to the New York City Police Department, Subchapter Two Pension Fund in 1995. As

such, there is no source of future contributions to the TPSOVSF and all benefit obligations must be met from the assets currently on hand.

The fact that the Excess for the TPSOVSF is negative indicates that the TPSOVSF's assets are not sufficient to meet all its benefit obligations, and there will come a time when the TPSOVSF will have no funds to pay benefits as they come due. Pursuant to Section 13-191 of the Administrative Code, those benefits will become an obligation of New York City at that time.

The examiner recommends that a systematic procedure be developed for providing funds to cover the above described shortfall, in order to avoid disruptions in benefit payments as the assets of the Fund are depleted.

5. TREATMENT OF MEMBERS

The examiner reviewed various elements of the Fund's activities affecting retirees to determine compliance with statutes and the rules of the Fund. The examiner reviewed a sample of benefit payments to retirees and beneficiaries to determine whether the member or beneficiary was treated fairly and in accordance with the rules of the Fund. The examiner also reviewed the various controls involved, checked the accuracy of computations and traced accounting data to the books of account.

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

6. CUSTODIAL AFFIDAVIT

Citibank is the custodian of securities for the Fund. At the beginning of the examination, a request to confirm the Fund's securities was sent to the bank. The examiners did not receive a proper confirmation from Citibank. The Comptroller provided the examiners with an electronic inventory of securities held by Citibank on CD-ROM and Citibank separately confirmed that the CD-ROM received from the Comptroller did in fact contain the inventory of securities held for the Fund. A proper confirmation should require the custodian to provide an inventory of all securities held by them as well as a notarized affidavit.

The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its custodian.

7. CASH

The Fund maintains its cash accounts with Chase Manhattan Bank. At the beginning of the examination, a request to confirm the Fund's cash accounts was sent to the bank. The examiner never received a confirmation from the bank. The bank would not accept an authorization letter from the Fund to release the requested information. The bank required an authorization letter from the Comptroller, which was requested by the examiner but never provided. As a result, the examiner was unable to properly verify the cash balances reported by the Fund as of June 30, 1999.

The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its bank.

8. ACCOUNTING RECORDS

A. Annual Statement

Section 307(a)(1) of the New York Insurance Law states, in part:

“ . . . every pension fund, retirement system . . . shall file in the office of the superintendent, annually on or before the first day of March, a statement, to be known as its annual statement . . . showing its condition at last year-end . . . ”

The Fund violated Section 307(a)(1) of the New York Insurance Law by filing its 1999 annual statement in August 2000, five months after its due date.

B. Chart of Accounts

Section 136.4(c) of Department Regulation No. 85 states:

“Each system shall maintain a classification of its accounts, numbered and titled, together with an accurate description of the content of each account by debit and credit. Such classification of accounts shall be consistent with the requirements of the annual statement form prescribed by the superintendent.”

The Fund violated Section 136.4(c) of Department Regulation No. 85 for not maintaining a description of the contents of each account by debit and credit.

9. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The examiner recommends that a systematic procedure be developed for providing funds to cover the shortfall, in order to avoid disruptions in benefit payments as the assets of the Fund are depleted.	8 – 9
B	The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its custodian.	10
C	The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its bank.	10
D	The Fund violated Section 307(a)(1) of the New York Insurance Law by filing its 1999 annual statement in August 2000, five months after its due date.	11
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APPOINTMENT NO. 21607

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, NEIL D. LEVIN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

EDWARD TASKER

as a proper person to examine into the affairs of the

TRANSIT POLICE SUPERIOR OFFICERS' VARIABLE SUPPLEMENTS FUND

and to make a report to me in writing of the condition of the said

FUND

with such other information as he shall deem requisite.

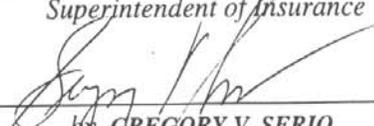
In Witness Whereof, I have hereunto subscribed by name
and affixed the official Seal of the Department
at the City of New York

this 28th day of August, 2000



NEIL D. LEVIN

Superintendent of Insurance


by GREGORY V. SERIO

First Deputy Superintendent