



**STATE OF NEW YORK INSURANCE DEPARTMENT**  
**REPORT ON EXAMINATION**  
**OF THE**  
**NEW YORK CITY**  
**TRANSIT POLICE OFFICERS' VARIABLE SUPPLEMENTS FUND**  
**AS OF**  
**JUNE 30, 2002**

**DATE OF REPORT:**

**AUGUST 7, 2009**

**EXAMINER:**

**JOSHUA WEISS**

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

August 7, 2009

Kermitt J. Brooks  
Acting Superintendent of Insurance  
New York, New York 10004

Sir:

In accordance with instructions contained in Appointment No. 22206, dated April 5, 2004, and annexed hereto, an examination has been made into the condition and affairs of the Transit Police Officers' Variable Supplements Fund, hereinafter referred to as "the Fund" or "TPOVSF," located at 335 Adams 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

This examination covers the period from July 1, 1999 through June 30, 2002. The examination comprised a verification of assets and liabilities as of June 30, 2002 to determine whether the System's 2002 filed annual statement fairly presents its financial condition. 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.

The examination revealed the following finding and recommendation:

1. The Fund violated Section 307(a)(1) of the New York Insurance Law by failing to file its 2002 annual statement by the March 1, 2003 deadline. The examiner recommends that the Fund file its annual statement before the March 1 deadline. (See item 6 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of June 30, 1999. This examination covers the period from July 1, 1999 through June 30, 2002. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 2002, but prior to the date of this report.

The examination comprised a verification of assets and liabilities as of June 30, 2002 to determine whether the Fund's 2002 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:

- History of the Fund
- Management and control
- Corporate governance
- 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 FUND

#### A. History

The Fund operates pursuant to the provisions of Title 13, Chapter 1, Section 13-191 of the Administrative Code of the City of New York (“Administrative Code”). A separate Transit Police Superior Officers’ Variable Supplements Fund operates pursuant to Section 13-192 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 a pension or retirement system. During the period under examination, basic pension benefits were provided to transit police officers through their membership in NYCERS. The Fund provides supplemental benefits to transit police 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 funds. Only inactive members of the transit police (retirees, vested terminations, etc.) remain in the Fund. The benefits provided by the Fund are the same benefits as are provided by the New York City Police Officers’ Variable Supplements Fund.

Under Section 13-191 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 (“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, 2002, were as follows:

<u>Name</u>	<u>Title</u>
Martha E. Stark*	New York City Commissioner of Finance
William C. Thompson	Comptroller, City of New York

\* Also acts as the representative of the Mayor of the City of New York.

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, 2002:

<u>Name</u>	<u>Title</u>
Martha E. Stark	Chairman
Horatio H. Sparkes	Secretary
John J. Murphy	Executive Secretary
Robert C. North Jr.	Actuary

#### 4. FINANCIAL STATEMENTS

The following statements show the assets and liabilities of the Fund as of June 30, 2002, as contained in the Fund's 2002 filed annual statement; and the comparative statements of income and disbursements for each of the fiscal years under review. 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 June 30, 2002 filed annual statement.

##### A. STATEMENT OF ASSETS AND LIABILITIES FISCAL YEAR ENDED JUNE 30, 2002

###### Assets

###### Ledger assets

Book value of bonds	\$25,829,948
Cash on deposit not on interest	<u>33,744</u>
Total ledger assets	<u>\$25,863,692</u>

###### Non-ledger assets

Interest due and accrued on bonds	\$ <u>160,343</u>
Total non-ledger assets	<u>\$ 160,343</u>

Total admitted assets \$26,024,035

###### Liabilities

Present value of benefits payable on account of beneficiaries now drawing allowances:	
Service retirement	<u>\$53,641,061</u>
Total net reserves	<u>\$53,641,061</u>

Net reserves and all other liabilities	\$53,641,061
Excess of admitted assets over total net reserves and all other liabilities	<u>(27,617,026)</u>

Total \$26,024,035

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

	<u>2000</u>	<u>2001</u>	<u>2002</u>
Amount of ledger assets at end of previous year	<u>\$30,037,963</u>	<u>\$28,727,948</u>	<u>\$27,284,445</u>
<b><u>Income</u></b>			
Gross interest on bonds	\$ 1,867,890	\$ 1,715,187	\$ 1,450,125
Received from NYCERS	71,272	0	0
Misc. investment income	0	0	20
Gross profit on sale or maturity of bonds	0	3,138	5,044
Gross increase, by adjustment, on book value of bonds	<u>37,219</u>	<u>48,588</u>	<u>55,426</u>
Total income	<u>\$ 1,976,381</u>	<u>\$ 1,766,913</u>	<u>\$ 1,510,615</u>
Total	<u>\$32,014,344</u>	<u>\$30,494,861</u>	<u>\$28,795,060</u>
<b><u>Disbursements</u></b>			
Payment on account of retirements: Annual or other periodic payments	\$ 3,248,177	\$ 3,200,683	\$ 2,926,968
Gross loss on sale or maturity of bonds	31,064	4,872	0
Gross decrease, by adjustment in book value of bonds	<u>7,155</u>	<u>4,861</u>	<u>4,400</u>
Total disbursements	<u>\$ 3,286,396</u>	<u>\$ 3,210,416</u>	<u>\$ 2,931,368</u>
Amount of ledger assets at end of current year	<u>\$28,727,948</u>	<u>\$27,284,445</u>	<u>\$25,863,692</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”) 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 TPOVSF, the Excess is much more significant. The TPOVSF 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 TPOVSF and all benefit obligations must be met from the assets currently on hand.

The fact that the Excess for the TPOVSF is negative indicates that the TPOVSF’s assets are not sufficient to meet all its benefit obligations. Pursuant to Section 13-191 of the Administrative Code, those benefits will become an obligation of New York City.

In conjunction with the merger of the Transit Police Force into the New York City Police Department, the City signed a letter of agreement with the effected unions to ensure that payment of benefits provided under the defined schedules prior to calendar year 2007 will be made. Thus, there should be no suspension of benefits prior to calendar year 2007, even if the assets of the fund become insufficient to pay these benefits.

For calendar years 2001 and thereafter, the defined schedules of benefits became guaranteed as of calendar year 2001 in accordance with Chapter 255 of the Laws of 2000 (“Chapter 255/00”).

Chapter 255/00 also provides that if, for any calendar year covered by a payment guarantee, the assets of the fund are not sufficient to pay benefits, an amount sufficient to pay such benefits shall be appropriated from the Contingent Reserve Fund of NYCERS and transferred to the fund.

The TPOVSF 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 a result, the transfer of “excess earnings”, the previously-used method of funding benefits for TPOVSF members, is not available. Section 13-191 of the Administrative Code states that these benefits will become an obligation of New York City when they are due.

However, Chapter 255 of the Laws of 2000, also specified that funds are to be transferred from NYCERS to the TPOVSF whenever assets in the TPOVSF are insufficient to pay benefits. In addition, the method of funding NYCERS was changed in 1999 in order to provide advance funding of the TPOVSF unfunded liabilities. The unfunded liability for TPOVSF is added to the normal NYCERS liabilities, so that funding for benefits to be provided by the TPOVSF is part of the normal required contribution for NYCERS.

## 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 the computations and traced accounting data to the books of account.

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

## 6. ANNUAL STATEMENT FILING

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 2002 annual statement in January 2004, ten months after its due date. The examiner recommends that the Fund file its annual statement before the March 1 deadline.

## 7. SUMMARY AND CONCLUSIONS

Following is the violation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Fund violated Section 307(a)(1) of the New York Insurance Law by failing to file its 2002 annual statement by the March 1, 2003 deadline. The examiner recommends that the Fund file its annual statement before the March 1 deadline.	9

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Joshua Weiss  
Associate Insurance Examiner

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

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

\_\_\_\_\_/s/\_\_\_\_\_  
Joshua Weiss

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

APPOINTMENT NO. 22206

**STATE OF NEW YORK**  
**INSURANCE DEPARTMENT**

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

**JOSHUA WEISS**

as a proper person to examine into the affairs of the  
**TRANSIT POLICE 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 5th day of April, 2004

**GREGORY V. SERIO**  
Superintendent of Insurance

  
Superintendent

