



STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

NEW YORK CITY POLICE SUPERIOR OFFICERS'
VARIABLE SUPPLEMENTS FUND

AS OF

JUNE 30, 2004

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. 22350, dated March 21, 2005 and annexed hereto, an examination has been made into the condition and affairs of the Police Superior Officers' Variable Supplements Fund, hereinafter referred to as "the Fund," at its home office located at 233 Broadway, 25th Floor, New York, New York 10279.

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, 2004. The examination comprised a verification of assets and liabilities as of June 30, 2004 to determine whether the Fund's 2004 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 findings:

1. The examiner recommends that the Fund adopt the updated operating Rules and Regulations of the New York City Police Department Pension Fund, Subchapter Two after they have been revised to incorporate all changes that have been instituted since 1940. This is a repeat recommendation from the prior two reports on examination. (See item 9 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, 2004. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 2004, but prior to the date of this report.

The examination comprised a verification of assets and liabilities as of June 30, 2004 to determine whether the Fund's 2004 filed annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification and utilized such other examination procedures, as deemed appropriate, in the review or audit of the following matters:

- History of the Fund
- Management and control
- Corporate governance
- Growth of the Fund
- Accounts and records
- Financial statements
- Member benefits

The examiner reviewed the corrective actions taken by the Fund with respect to violations, recommendations and/or comments contained in the prior report on examination. The results of the examiner's review are contained in item 10 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 Fund was established on July 1, 1970. The Fund operates pursuant to the provisions of Title 13, Chapter 2, Subchapter 4 of the Administrative Code (“Administrative Code”) to provide supplemental benefits to retired New York City Police Superior Officers who retired from service on or after October 1, 1968. Benefits became guaranteed to eligible members of the police force in 1993 with the adoption of Chapter 479 of the laws of 1993, which amended Title 13, Chapter 2 of the Administrative Code. The Fund is administered by the New York City Police Department Pension Fund, Subchapter Two (“POLICE”) and basic pension benefits are provided to police officers through their membership in POLICE. Under current law, the Fund is not to be construed as constituting a pension or retirement system. Instead, it provides supplemental payments, other than pension or retirement system allowances, in accordance with applicable statutory provisions. The New York State Legislature has reserved to itself and the State of New York the right and power to amend, modify, or repeal the Fund and the payment it provides.

POLICE is the source of funding for the Fund. The Fund receives monies from POLICE pursuant to the provisions of Section 13-232 of Title 13, Chapter 2, Subchapter 2 of the Administrative Code, which are referred to as transferable earnings (“SKIM”), in addition to monies received from any other source pursuant to law.

Under 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. The members of the board are trustees of the monies that the Fund receives and have the power to invest the same in accordance with the limitations and restrictions imposed by law upon savings banks; and have the same investment powers as are vested by the Administrative Code, and the Retirement and Social Security Law in the board of trustees of FIRE. 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 board members and their principal business affiliation, as of June 30, 2004 were as follows:

<u>Members</u>	<u>Affiliation</u>
Anthony Crowell	Representative of the Mayor of the City of New York
William C. Thompson	Comptroller of the City of New York
Martha E Stark	Commissioner of Finance
John F. Driscoll	President, Captain’s Endowment Association
Anthony Garvey	President, Lieutenant’s Benevolent Association
Thomas J. Scotto	President, Detective’s Endowment Association
Edwards Mullins	President, Sergeant’s Benevolent Association

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

Michael Palladino replaced Thomas J. Scotto on July 1, 2004.

4. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Fund during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Fund's financial growth (decline) during the period under review:

	June 30, <u>1999</u>	June 30, <u>2004</u>	Increase <u>(Decrease)</u>
Admitted assets	<u>\$1,357,386,680</u>	<u>\$1,142,347,211</u>	\$ <u>(215,039,469)</u>
Net reserves and liabilities	\$1,283,484,853	\$2,071,028,529	\$ 787,543,676
Excess of admitted assets over total net reserves and all other liabilities	<u>73,901,827</u>	<u>(928,681,318)</u>	<u>(1,002,583,145)</u>
Total	<u>\$1,357,386,680</u>	<u>\$1,142,347,211</u>	\$ <u>(215,039,469)</u>

As of June 30, 2004, the Fund's admitted assets were mainly comprised of equity securities (71%), and bonds (32%).

5. FINANCIAL STATEMENTS

The following statements show the assets and liabilities of the Fund as of June 30, 2004, as contained in the Fund's 2004 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, 2004 filed annual statement.

A. STATEMENT OF ASSETS AND LIABILITIES

AS OF JUNE 30, 2004

Assets

Ledger assets

Cash on deposit	\$ (976,191)
Commercial paper	5,065,764
Bonds	362,592,660
Stocks	349,044,900
International investments	227,232,138
Short term funds	11,737,676
Receivable for investment securities sold	11,246,456
Payment for investment securities purchased	<u>(77,322,240)</u>
Total ledger assets	\$ <u>896,521,163</u>

Non-ledger assets

Interest due and accrued on commercial paper	\$ 500
Interest due and accrued on bonds	3,809,437
Dividends due and accrued	608,868
Market value of stocks over book value	<u>241,407,243</u>

Total non-ledger assets \$ 245,826,048

Total admitted assets \$ 1,142,347,211

Liabilities

Present value of benefits payable on account of beneficiaries now drawing allowances	\$1,283,638,813
Present value of benefits provided by employer for members now in active service	<u>787,389,716</u>
Total liabilities	<u>\$2,071,028,529</u>
Excess of admitted assets over liabilities	<u>\$ (928,681,318)</u>
Total	<u>\$1,142,347,211</u>

B. STATEMENT OF INCOME AND DISBURSEMENTS

Fiscal Year Ending June 30,

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
Ledger assets at end of previous year	\$ <u>897,711,973</u>	\$ <u>923,097,996</u>	\$ <u>967,883,556</u>	\$ <u>974,384,683</u>	\$ <u>927,731,189</u>
<u>Income</u>					
Benefits recouped	\$ 0	\$ 113,544	\$ 202,571	\$ 336,831	\$ 420,215
Gross interest on collateral loans	0	1,500,616	306,443	0	0
Gross interest on bonds less accrued interest	21,749,394	21,216,650	21,389,303	18,790,748	15,854,881
Gross dividends	9,654,230	8,578,941	7,593,243	8,061,644	9,084,149
Gross interest on STIF	1,635,991	3,047,264	2,180,085	537,295	332,707
Gross interest on commercial paper	882,189	0	0	86,901	61,036
Investment income	17,425	44,905	90,085	73,371	70,332
Security lending	314,108	223,993	142,178	95,953	102,821
Treasury bills and disc notes	0	0	0	0	103,752
Federal withholding tax	0	8,527,976	0	0	0
Gross profit on sale of bonds	2,045,394	10,795,197	12,601,256	15,457,827	11,878,959
Gross profit on sale of stocks	79,872,555	98,636,530	36,951,678	7,636,403	28,810,526
Gross increase by adjustment in book value of bonds	<u>579,719</u>	<u>899,962</u>	<u>1,374,920</u>	<u>2,435,347</u>	<u>8,978,993</u>
Total income	\$ <u>116,945,576</u>	\$ <u>153,585,578</u>	\$ <u>82,831,762</u>	\$ <u>53,512,320</u>	\$ <u>75,698,371</u>

Disbursements

Benefit payments	\$ 52,961,366	\$ 52,430,676	\$ 52,099,587	\$ 71,152,357	\$ 84,613,152
Miscellaneous expense	0	0	0	0	4,905
Investment expense	736	4,007	0	0	0
Foreign tax withheld on foreign investment	931	696	641	700	978
Federal withholding tax	0	0	2,649	11,563	14,185
Gross loss on sale or maturity of bonds	6,017,230	9,721,707	9,693,156	14,045,891	9,066,893
Gross loss on sale or maturity of stocks	32,022,975	45,973,849	13,602,241	13,164,241	11,116,946
Decrease by adjustment in book value of bonds	<u>556,315</u>	<u>669,083</u>	<u>932,362</u>	<u>1,791,062</u>	<u>2,091,338</u>
Total disbursements	<u>\$ 91,559,553</u>	<u>\$108,800,018</u>	<u>\$ 76,330,635</u>	<u>\$100,165,814</u>	<u>\$106,908,397</u>
Net increase/(decrease)	<u>\$ 25,386,023</u>	<u>\$ 44,785,560</u>	<u>\$ 6,501,127</u>	<u>\$(46,653,494)</u>	<u>\$(31,210,026)</u>
Ledger assets at end of current year	<u>\$923,097,996</u>	<u>\$967,883,556</u>	<u>\$974,384,683</u>	<u>\$927,731,189</u>	<u>\$896,521,163</u>

6. FUNDING

POLICE provides the necessary funding for the Fund. The Administrative Code states, among other things, how the amounts transferred into the Fund shall be computed.

The benefits provided by the Fund are to be funded by transferring "excess earnings" from POLICE to the Fund based on the excess, if any, of the actual POLICE earnings over a calculated amount of earnings based on ten-year United States Treasury Notes. Under this method of funding the defined benefits of the Fund, the possibility exists that after a period of low earnings the assets in the Fund could be insufficient to pay benefits that are due. However, the funding method for POLICE recognizes that possibility. As a result, the actuarially-determined unfunded liability for the Fund is added to the normal POLICE liabilities, so that any potential shortfall in the Fund transferable earnings is part of the normal required contribution for the POLICE. Beginning with the June 30, 2000 actuarial valuation of the POLICE, the actuarially-determined unfunded liability for the Fund was explicitly shown in the liabilities for POLICE given that the benefits of the Fund are now on a fixed, guaranteed schedule, are no longer linked to favorable earnings on POLICE investments, and are being funded within POLICE liabilities.

7. MEMBER BENEFITS

Benefits are paid to retired eligible officers based on Section 13-281 of the Administrative Code. Benefits are offset by a portion of the Cost of Living Allowance (“COLA”) supplement to the police superior officer’s pension until the retiree reaches age 62 or calendar year 2007, whichever is later.

Prior to Chapter 479 of the Laws of 1993 (“Chapter 479/93”) signed on July 26, 1993, the Board of Trustees of the Fund periodically determined what benefit payments the participants were to receive. Beginning July 26, 1993, Chapter 479/93 established a schedule of supplemental benefits payable each December for those who retire (or have retired) with service retirement benefits and who have at least 20 years of service. The supplemental benefits are guaranteed by the City of New York (“the City”). As a result, if the assets of the Fund do not support the supplemental benefit payments, then the City would be required by law to fund the difference.

The following table reflects the guaranteed benefits payable:

<u>Calendar Year</u>	<u>Annual Supplement</u>	<u>Calendar Year</u>	<u>Annual Supplement</u>
1997	\$7,000	2003	\$10,000
1998	\$7,500	2004	\$10,500
1999	\$8,000	2005	\$11,000
2000	\$8,500	2006	\$11,500
2001	\$9,000	2007 and each	\$12,000
2002	\$9,500	year thereafter	

For officers hired on or after July 1, 1988, the annual benefit would start at \$2,500 (prorated from the date of retirement) and increase in \$500 increments each calendar year until reaching the \$12,000 maximum.

In 2002, a Deferred Retirement Option Program (“DROP”) was established under Chapter 216 of the laws of 2002. The DROP provides service retirees who retire with more than 20 years of service with a single lump sum amount equal to the variable supplement payments that the member would have been paid, had the member retired upon completion of 20 years of service. Each year’s Fund benefit is “banked”, beginning with the member’s 20th anniversary

date or January 1, 2002, whichever is later. Upon retirement the “banked” amounts are paid as a lump sum along with the regular benefit payment. The regular benefit payment and the banked DROP amount are not paid to service retirees who have an application pending for disability retirement.

8. TREATMENT OF MEMBERS

The examiner reviewed a random sample of benefit payments to retirees and beneficiaries to determine whether the member or beneficiary was treated fairly and in accordance with the rules governing 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 upon the random sample reviewed, no significant findings were noted.

9. RULES AND REGULATIONS

The previous report on examination recommended that the Fund develop and maintain updated Rules and Regulations and have these available for the next examination. The Fund utilizes the same Rules and Regulations as POLICE. The Administrative Code was re-codified in 1985. The Rules and Regulations used by the Fund are based on the Administrative Code as reenacted in 1940, and therefore, make reference to provisions of the Administrative Code which are obsolete and no longer applicable. POLICE has stated that it will begin the process of rewriting its Rules and Regulations and submit them to the New York City Law Department for review. The revised Rules and Regulations will also be applicable to the Police Officers’ Variable Supplements Fund. Upon the adoption of updated Rules and Regulations by POLICE, the examiner recommends that the Fund adopt the same updated Rules and Regulations as POLICE, incorporating all changes that have been instituted since 1940.

10. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the recommendations contained in the prior report on examination and the subsequent actions taken by the Fund in response to each recommendation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the annual statement show as board members only the board members or their designated representative. This is a repeat recommendation from the prior report on examination.</p> <p>The Fund showed only the proper persons as board members during the current examination period.</p>
B	<p>The examiner recommends that the Fund adhere to Section 13-270(e) of the Administrative Code by approving the actuarial assumptions and reflecting it in the board meeting minutes. This is a repeat recommendation from the prior report on examination.</p> <p>There were no approvals required, as there was no SKIM paid during the period under review.</p>
C	<p>The examiner recommends that upon the adoption of updated Rules and Regulations by POLICE, the Fund incorporate all changes that have been instituted since 1940. This is a repeat recommendation from the prior report on examination.</p> <p>The Fund did not update the Rules and Regulations during the period under the review.</p>

11. SUMMARY AND CONCLUSIONS

Following is the recommendation contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No.</u>
A	The examiner recommends that the Fund adopt the updated operating Rules and Regulations of POLICE after they have been revised to incorporate all changes that have been instituted since 1940. This is a repeat recommendation from the prior two reports on examination.	13

APPOINTMENT NO. 22350

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, HOWARD MILLS, Acting 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

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 21st day of March, 2005



HOWARD MILLS

Acting Superintendent of Insurance

A handwritten signature in cursive script, appearing to read "Howard Mills", written in dark ink.

Acting Superintendent