



STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

NEW YORK CITY

CORRECTION 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. 22208, dated April 5, 2004, and annexed hereto, an examination has been made into the condition and affairs of the New York City Correction Officers' Variable Supplements Fund, hereinafter referred to as "COVSF" or "the Fund," at its home office 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

This examination covers the period from July 1, 1999 to June 30, 2002. As necessary, the examiner reviewed transactions 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 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

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

Chapter 657 of the Laws of 1999 established the Correction Officers Variable Supplements Fund (“COVSF” or the “Fund”) and the Correction Captains’ and Above Variable Supplements Fund (“CAVSF”). Chapter 255 of the Laws of 2000 (“Chapter 255/00”) combined the COVSF and the CCAVSF into one amended fund (Correction Officers Variable Supplements Fund) effective December 29, 1999.

The Fund operates pursuant to the provisions of Title 13, Chapter 1 of the Administrative Code of the City of New York (“ACNY”). It provides supplemental benefits to members of the Uniformed Correction Force (“UCF”) that retire on or after July 1, 1999, with 20/25 or more years of service from the New York City Employees’ Retirement System (“NYCERS”).

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.

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 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> |
|---------------------|---|
| Peter D. Meringolo | President of the Correction Captain Association |
| Martha E. Stark | New York City Commissioner of Finance |
| Norman I. Seabrook | President of the Correction Officers Benevolent Association |
| William C. Thompson | Comptroller, City of New York |

The following is a listing of the principal officers of the Fund as of June 30, 2002:

| <u>Name</u> | <u>Title</u> |
|----------------------|---------------------|
| Norman I. Seabrook | 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

| | |
|---------------------------------|----------------------|
| Bonds | \$ 99,280,093 |
| Cash on deposit not on interest | (5,693) |
| Miscellaneous receivable | <u>443</u> |
| Total ledger assets | \$ <u>99,274,843</u> |

Non-ledger assets

| | |
|-----------------------------------|-------------------|
| Interest due and accrued on bonds | \$ 208,375 |
| Due from NYCERS | <u>0</u> |
| Total non-ledger assets | \$ <u>208,375</u> |

Total admitted assets \$ 99,483,218

Liabilities

| | |
|---|-----------------------|
| Present value of benefits payable on account of beneficiaries now drawing allowances: Service retirement | \$ 148,956,262 |
| Present value of benefits provided by employer for members now in active service: Service retirement | <u>261,214,941</u> |
| Total net reserves | \$ <u>410,171,203</u> |

Net reserves and all other liabilities \$ 410,171,203
Excess of admitted assets over total net reserves
and all other liabilities (310,687,985)

Total \$ 99,483,218

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

| | <u>2000</u> | <u>2001</u> | <u>2002</u> |
|--|-------------|-----------------------|-----------------------|
| Ledger assets at end of previous year | \$ <u>0</u> | \$ <u>0</u> | \$ <u>98,544,821</u> |
| <u>Income</u> | | | |
| From Interest: | | | |
| Gross interest on bonds | \$ 0 | \$ 3,787,651 | \$ 2,102,995 |
| From other sources: | | | |
| Received from NYCERS | 0 | 96,730,587 | 0 |
| Gross profit on sale of bonds | 0 | 0 | 31,291 |
| Gross increase by adjustment on book value of bonds | <u>0</u> | <u>0</u> | <u>4,749,374</u> |
| Total income | \$ <u>0</u> | \$ <u>100,518,238</u> | \$ <u>6,883,660</u> |
| Total | \$ <u>0</u> | \$ <u>100,518,238</u> | \$ <u>105,428,481</u> |
| <u>Disbursements</u> | | | |
| Annual or other periodic payments | \$ 0 | \$ 1,973,417 | \$ 5,871,607 |
| Gross loss on sale or maturity of bonds | 0 | 0 | 82,368 |
| Decrease by adjustment in book value of bonds | <u>0</u> | <u>0</u> | <u>199,663</u> |
| Total disbursements | \$ <u>0</u> | \$ <u>1,973,417</u> | \$ <u>6,153,638</u> |
| Net increase | \$ <u>0</u> | \$ <u>98,544,821</u> | \$ <u>730,022</u> |
| Ledger assets at end of current year | \$ <u>0</u> | \$ <u>98,544,821</u> | \$ <u>99,274,843</u> |

5. FUNDING

NYCERS administers the Fund and is the Fund's source of funding. Title 13, Chapter 1, Section 13-195 of the ACNY describes how amounts to be transferred from NYCERS into the Fund will be calculated.

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

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. 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 the accounting data to the books of account.

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

8. SUMMARY AND CONCLUSIONS

Following is the violation contained in this report:

| <u>Item</u> | <u>Description</u> | <u>Page No.</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. | 8 |

Respectfully submitted,

/s/
Joshua Weiss
Associate 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. 22208

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

CORRECTION 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

[Handwritten Signature]
Superintendent