



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
SUFFOLK COUNTY POLICE BENEVOLENT ASSOCIATION  
LEGAL SERVICES FUND

CONDITION:

DECEMBER 31, 2011

DATE OF REPORT:

APRIL 1, 2013

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

SUFFOLK COUNTY POLICE BENEVOLENT ASSOCIATION

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EXAMINER:

SHARON REYNOLDS

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

March 13, 2017

Honorable Maria T. Vullo  
Superintendent of Financial Services  
New York, New York 10004

Madam:

Pursuant to instructions contained in Appointment No. 30821, dated October 16, 2012 and annexed hereto, an examination has been made of the condition and affairs of the Suffolk County Police Benevolent Association Legal Services Fund hereinafter referred to as “the Fund,” at the principal office of the Fund, located at 868 Church Street, Bohemia, NY 11716.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

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

## 1. EXECUTIVE SUMMARY

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 December 31, 2011 filed annual statement. (See item 4 of this report)

The Fund violated Section 201.1(a)(4) of Department Regulation No. 38 by failing to give the Department written notice of changes to the board of trustees within 10 days after the changes had occurred. (See item 3 of this report)

The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 by failing to give the Department written notice within 10 days after amending plan benefits. (See item 3 of this report)

The examiner's review of the Fund's market conduct activities did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters or the operating rules of the Fund. (See item 6 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2006. This examination covers the period from January 1, 2007 through December 31, 2011. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2011 but prior to the date of this report (i.e., the completion date of the examination).

This examination comprised a verification of the Fund's assets and liabilities as of December 31, 2011 to determine whether the Fund's filed December 31, 2011 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
- Fund records
- Member benefits and contributions
- Market conduct activities
- Growth of Fund
- Accounts and records
- Financial statements

The examiner reviewed the prior report on examination which did not contain any violations, recommendations or comments.

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules or which require explanation or description.

### 3. DESCRIPTION OF FUND

The Fund was established on January 21, 1983, pursuant to a collective bargaining agreement and a Declaration of Trust (“Trust Agreement”) between Suffolk County (“County”) and the Suffolk County Police Benevolent Association (“Association”). The Trust Agreement provides legal service benefits for eligible employees, their families and dependents.

The December 31, 2011 Annual Statement indicated that there were approximately 2,196 active participants.

#### A. Management

The Trust Agreement requires that the board of trustees shall be comprised of eight trustees, four appointed by Union and four appointed by the County. The following is a list of the trustees as well as their principal business affiliations, as of December 31, 2011.

<u>Appointed by the County</u>		
<u>Name</u>	<u>Principal Business Affiliation</u>	<u>Year First Appointed</u>
Frank Nardelli	County Executive Assistant	2007
Edwin Perez	Director of Community Affairs	2009
Jeff Tempera	Director of Labor Relations	2007
<u>Appointed by the Association</u>		
<u>Name</u>	<u>Principal Business Affiliation</u>	<u>Year First Appointed</u>
Michael Applequist	Police Officer – Suffolk County	2005
Ronald Ross	Police Officer – Suffolk County	2008
Fred Sales	Police Officer – Suffolk County	2000
Louis Tutone	Police Officer – Suffolk County	2008
<u>Appointed by the Fund</u>		
Phil Cater	Fund Administrator	2002

Section 201.1 of Department Regulation No. 38 states, in part:

“The trustees of every employee welfare fund shall give written notice to the Insurance Department of:

- (a) Any of the following changes, within 10 days after it shall have occurred . . .
- (4) Any change in the membership of the board of trustees . . . or in its administrator . . .”

Subsequent to the examination date, in January 2012, Mr. Joseph Link replaced Mr. Fred Sales and Mr. Damian Lee replaced Mr. Lou Tutone. Notification of the changes was sent to the Department in May 2012. The Fund failed to notify the Department, in writing, of the changes made to its board of trustees within 10 days after the changes had occurred.

The Fund violated Section 201.1(a)(4) of Department Regulation No. 38 by failing to give the Department written notice of changes to the board of trustees within 10 days after the changes had occurred.

The examiner’s review of the minutes of the trustees’ meetings indicated that the majority of trustees attended the meetings regularly; however, Mr. Fred Sales attended only one meeting in 2007 and no meetings in 2011.

The examiner recommends that all of the Fund’s trustees attend a majority of the trustees’ meetings.

The Fund did not have, in accordance with the Trust Agreement, four trustees appointed by the County at December 31, 2011.

The examiner recommends that the Fund maintain the requisite number of trustees appointed by the County, as specified in the Trust Agreement.

## B. Investment Powers of the Trustees

The Trust Agreement empowers the trustees to invest in any investments that are legal for investments of trust funds under the laws of the State of New York.

As of December 31, 2011, the Fund's assets were mainly comprised of cash (100%).

## C. Member Benefits

The following self-insured benefits, administered by the law firm of Davis and Hersh, are provided to active members and their eligible dependents either at no cost or at reduced rates:

<u>Benefit Cost</u>	<u>Coverage</u>
Services provided without cost	Unlimited advice and consultation with an attorney, legal letters written and telephone calls made on behalf of members and dependents, limited document review, simple wills, child adoption benefits, disability application, criminal matter up to and through arraignment, and representation for misdemeanors.
Services provided at a reduced rate fee schedule	Representation in the following proceedings: divorce and separation, misdemeanors, personal bankruptcy, juvenile delinquency, name change, estate/probate proceedings, real estate benefit and short sales.
Services provided at a reduced rate contingency fee	Personal injury cases fee rate of (25%) and social security disability appeals fee rate of (25%).

In addition, a reimbursement of \$500 is available for members when using divorce mediation services provided by Divorce Mediation HQ.

Section 201.1 of Department Regulation No. 38 states, in part:

“The trustees of every employee welfare fund shall give written notice to the Insurance Department of:

- (a) Any of the following changes, within 10 days after it shall have occurred . . .
- (2) Any amendment to, substitute for, or other change in . . .
- (i) the plan . . .”

According to the Fund's board minutes, the Fund amended its benefit plan by adding a divorce mediation benefit in February 2008. The Fund failed to notify the Department, in writing, of the aforementioned change made to its benefit plan.

The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 by failing to give the Department written notice within 10 days after amending plan benefits.

#### D. Contributions

The Fund does not receive any direct contributions from the County. The money necessary to operate the Fund is allocated from the Suffolk County Police Benevolent Association Benefit Fund as follows:

<u>Year</u>	<u>Amount</u>
2007	\$302,207
2008	\$301,047
2009	\$309,441
2010	\$313,545
2011	\$287,889

#### E. Information to Members

The Fund's records indicate that annual reports are distributed to all members through an internet website. The website, [www.suffolkpba.org](http://www.suffolkpba.org), is accessible to all members and describes the Fund's benefits and procedures.

#### 4. FINANCIAL STATEMENTS

The following statements indicate the changes in assets, liabilities and reserve fund balance between the years ended January 1, 2007 and December 31, 2011, changes in the reserve fund balance for the period under examination, and a reconciliation of the reserve fund balance for each of the years under examination as extracted from the Fund's filed annual statements.

##### A. STATEMENT OF ASSETS, LIABILITIES AND RESERVE FUND BALANCE

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

	<u>December 31,</u> <u>2006</u>	<u>December 31,</u> <u>2011</u>	<u>Increase</u> <u>(Decrease)</u>
<u>Assets</u>			
Cash	\$ 2,991	\$ 5,771	\$ 2,780
Due from trustee	265	0	(265)
Prepaid expenses	<u>9,255</u>	<u>4,910</u>	<u>(4,345)</u>
Total assets	<u>\$12,511</u>	<u>\$10,681</u>	<u>\$(1,830)</u>
<u>Liabilities and reserve fund balance</u>			
Unpaid claims	\$29,400	\$ 37,600	\$ 8,200
Accounts payable	3,000	3,000	0
Due to Suffolk County Police Benevolent Association Benefit Fund	<u>9,511</u>	<u>7,681</u>	<u>(1,830)</u>
Total liabilities	<u>\$ 41,911</u>	<u>\$ 48,281</u>	<u>\$ 6,370</u>
Reserve fund balance	<u>\$(29,400)</u>	<u>\$(37,600)</u>	<u>\$(8,200)</u>
Total liabilities and reserve fund balance	<u>\$ 12,511</u>	<u>\$ 10,681</u>	<u>\$(1,830)</u>

B. STATEMENT OF CHANGES IN RESERVE FUND BALANCE

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
<u>Additions to fund balance:</u>					
Employer contributions	\$302,207	\$301,047	\$309,441	\$313,545	\$287,889
Decrease in plan benefit obligations	<u>10,800</u>	<u>0</u>	<u>0</u>	<u>13,800</u>	<u>0</u>
Total additions	<u>\$313,007</u>	<u>\$301,047</u>	<u>\$309,441</u>	<u>\$327,345</u>	<u>\$287,889</u>
<u>Deductions from fund balance:</u>					
Benefits paid directly by the Fund	\$ 500	\$ 1,750	\$ 1,000	\$ 250	\$ 750
Premiums paid to service organizations	268,942	264,675	274,400	271,075	256,992
Administrative expenses	32,765	34,622	34,041	42,220	30,147
Increase in plan benefit obligations	<u>0</u>	<u>7,200</u>	<u>15,000</u>	<u>0</u>	<u>10,600</u>
Total deductions	<u>\$302,207</u>	<u>\$308,247</u>	<u>\$324,441</u>	<u>\$313,545</u>	<u>\$298,489</u>
Net increase (decrease) in fund balance	<u>\$ 10,800</u>	<u>\$ (7,200)</u>	<u>\$ (15,000)</u>	<u>\$ 13,800</u>	<u>\$ (10,600)</u>

C. RECONCILIATION OF RESERVE FUND BALANCE

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Reserve fund balance, December 31, previous year	\$ <u>(29,400)</u>	\$ <u>(18,600)</u>	\$ <u>(25,800)</u>	\$ <u>(40,800)</u>	\$ <u>(27,000)</u>
Total additions during year	\$313,007	\$301,047	\$309,441	\$327,345	\$287,889
Total deductions during year	<u>302,207</u>	<u>308,247</u>	<u>324,441</u>	<u>313,545</u>	<u>298,489</u>
Change in fund balance	\$ <u>10,800</u>	\$ <u>(7,200)</u>	\$ <u>(15,000)</u>	\$ <u>13,800</u>	\$ <u>(10,600)</u>
Reserve fund balance, December 31, current year	\$ <u>(18,600)</u>	\$ <u>(25,800)</u>	\$ <u>(40,800)</u>	\$ <u>(27,000)</u>	\$ <u>(37,600)</u>

## 5. ADMINISTRATIVE EXPENSES

The following table shows a breakdown of the administrative expenses for the fiscal year ending December 31, 2011:

### Administrative Expenses

Allowances, expenses	\$ 150
Fees and commissions	21,000
Insurance premiums	6,365
Fidelity bond premium	232
Dues and subscriptions	290
Stationery, printing and office supplies	<u>2,110</u>
Total administrative expenses	<u>\$30,147</u>

The following schedule shows the number of members, contributions, administrative expenses, the ratio of administrative expenses to contributions, and the administrative cost per member for the period under review:

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Number of members	2,299	2,272	2,204	2,199	2,196
Contributions	\$302,207	\$301,047	\$309,441	\$313,545	\$287,889
Administrative expenses	\$32,765	\$34,622	\$34,041	\$42,220	\$30,147
Ratio of administrative expenses to contributions	10.84%	11.50%	11.00%	13.47%	10.47%
Administrative cost per member	\$14.25	\$15.24	\$15.45	\$19.20	\$13.73

## 6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Fund's market conduct activities affecting claimants to determine compliance with applicable statutes and regulations and the operating rules of the Fund.

The examiner reviewed a sample of self-insured legal claims to determine whether the members were treated fairly and in accordance with plan benefits.

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

## 7. 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 Fund violated Section 201.1(a)(4) of Department Regulation No. 38 by failing to give the Department written notice of changes to the board of trustees within 10 days after the changes had occurred.	5
B	The examiner recommends that all of the Fund's trustees attend a majority of the trustees' meetings.	5
C	The examiner recommends that the Fund maintain the requisite number of trustees appointed by the County, as specified in the Trust Agreement.	5
D	The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 by failing to give the Department written notice within 10 days after amending plan benefits.	7



APPOINTMENT NO. 30821

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

**SHARON REYNOLDS**

as a proper person to examine the affairs of the

**SUFFOLK COUNTY POLICE BENEVOLENT ASSOCIATION LEGAL SERVICES FUND**

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

**WELFARE FUND**

with such other information as he shall deem requisite.

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

this 16th day of October, 2012

BENJAMIN M. LAWSKY  
Superintendent of Financial Services

By:



MICHAEL MAFFEI  
ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU

