



**STATE OF NEW YORK INSURANCE DEPARTMENT**

**REPORT ON EXAMINATION**

**OF THE**

**NEW YORK CITY POLICE 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. 22349 dated March 21, 2005 and annexed hereto, an examination has been made into the condition and affairs of the Police Officers' Variable Supplements Fund, hereinafter referred to as "the Fund," at its home office located at 233 Broadway, 25<sup>th</sup> Floor, New York, NY 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 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 by amendment to the Administrative Code of the City of New York (“Administrative Code”). The Fund operates pursuant to the provisions of Title 13, Chapter 2, Subchapter 3 of the Administrative Code. The Fund is administered by the New York City Police Department Pension Fund, Subchapter Two (“POLICE”) and provides supplemental benefits to retired Police Officers of the New York City Police Department. 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 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
Patrick J. Lynch	President, Patrolmens' Benevolent Association
John Puglisi	First Vice President, Patrolmens' 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.

#### 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>\$1,191,436,879</u>	<u>\$ 999,337,674</u>	<u>\$(192,099,205)</u>
Net reserves and liabilities	\$ 957,239,843	\$1,248,857,315	\$ 291,617,472
Excess of admitted assets over total net reserves and all other liabilities	<u>234,197,036</u>	<u>(249,519,641)</u>	<u>(483,716,677)</u>
Total	<u>\$1,191,436,879</u>	<u>\$ 999,337,674</u>	<u>\$(192,099,205)</u>

As of June 30, 2004, the Fund's admitted assets were mainly comprised of stocks and other equity securities (70%), and bonds (33%).

## 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	\$ (1,878,294)
Commercial paper	7,112,269
STIF	10,428,120
Bonds	329,077,460
Stocks	480,462,190
Discount notes	6,700,000
Receivable for investment securities sold	10,383,725
Payment for investment securities purchased	<u>(71,725,661)</u>
Total ledger assets	<u>\$770,559,809</u>

##### Non-ledger assets

Interest due and accrued on bonds	\$ 3,428,049
Interest due and accrued on commercial paper	6,577
Dividends accrued	564,744
Market value of stocks over book value	<u>224,780,495</u>
Total non-ledger assets	<u>\$228,779,865</u>
Total admitted assets	<u>\$999,337,674</u>

Liabilities

Present value of benefits payable on account of beneficiaries now drawing allowances	\$ 861,982,275
Present value of benefits provided by employer for members now in active service	<u>386,875,040</u>
Total liabilities	<u>\$1,248,857,315</u>
Excess of admitted assets over liabilities	<u>\$ (249,519,641)</u>
Total	<u>\$ 999,337,674</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>687,959,635</u>	\$ <u>718,095,420</u>	\$ <u>790,324,053</u>	\$ <u>799,379,236</u>	\$ <u>777,748,514</u>
<u>Income</u>					
Benefits recouped	\$ 30,839	\$ 11,275	\$ 46,473	\$ 77,828	\$ 34,275
Gross interest on collateral loans	963,078	1,464,704	0	0	0
Gross interest on bonds less accrued interest	19,639,323	18,996,250	18,619,255	16,347,191	14,153,896
Gross dividends on stocks	9,121,936	7,969,225	6,743,030	7,249,034	8,241,850
Gross interest on STIF	899,155	2,628,917	1,754,222	443,672	289,642
Gross interest on investment income	34,974	70,037	133,458	208,886	120,956
Gross interest from security lending	285,443	325,594	323,950	155,667	144,830
Gross interest from commercial paper	0	0	283,027	112,006	20,720
Gross interest from treasury bills and discount notes	0	0	0	0	70,041
Gross profit on sale of bonds	0	0	10,322,169	13,291,047	10,696,289
Gross profit on sale of stocks	76,113,795	123,450,968	65,550,622	10,222,676	26,736,089
Gross increase by adjustment on book value of bonds	<u>532,373</u>	<u>856,093</u>	<u>1,271,243</u>	<u>2,214,803</u>	<u>6,669,618</u>
Total income	\$ <u>109,054,691</u>	\$ <u>165,038,045</u>	\$ <u>105,047,449</u>	\$ <u>50,322,810</u>	\$ <u>67,178,206</u>

<u>Disbursements</u>					
Benefit payments	\$ 50,457,678	\$ 51,924,844	\$ 35,549,528	\$ 44,706,940	\$ 52,211,790
Investment expense	690	3,742	0	0	0
Miscellaneous expense	0	0	0	0	45,234
Foreign tax withheld on foreign dividends	721	582	562	6,192	871
Gross loss on sale or maturity of bonds	4,852,487	8,686,295	8,529,890	12,561,533	8,621,890
Gross loss on sale or maturity of stocks	23,168,005	31,615,912	51,112,694	13,238,348	11,695,009
Decrease by adjustment in book value of bonds	<u>439,325</u>	<u>578,037</u>	<u>799,592</u>	<u>1,440,519</u>	<u>1,792,117</u>
Total disbursements	\$ <u>78,918,906</u>	\$ <u>92,809,412</u>	\$ <u>95,992,266</u>	\$ <u>71,953,532</u>	\$ <u>74,366,911</u>
Net increase	\$ <u>30,135,785</u>	\$ <u>72,228,633</u>	\$ <u>9,055,183</u>	\$ <u>(21,630,722)</u>	\$ <u>(7,188,705)</u>
Ledger assets at end of current year	\$ <u>718,095,420</u>	\$ <u>790,324,053</u>	\$ <u>799,379,236</u>	\$ <u>777,748,514</u>	\$ <u>770,559,809</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 13-271 of the Administrative Code. Benefits are offset by a portion of the Cost of Living Allowance ("COLA") supplement to the police officer's pension until the retiree reaches age 62 or calendar year 2007, whichever is later.

Prior to Chapter 247 of the Laws of 1988 ("Chapter 247/88"), the Board of Trustees of the Fund periodically determined what benefit payments the participants were to receive. Beginning July 1, 1988, Chapter 247/88 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 20<sup>th</sup> 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. The 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 Superior Officers' Variable Supplements Fund. The examiner recommends that upon the adoption of updated Rules and Regulations of the Administrative Code by the POLICE, the Fund incorporate 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 citation:

<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 representatives. 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 reflecting the approval of the actuarial assumptions 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 of the Administrative Code 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>POLICE has not yet updated its Rules and Regulation.</p>
D	<p>The examiner recommends that the Fund facilitate the Department in obtaining proper confirmations from its custodian.</p> <p>The Department obtained proper confirmations from the Fund's custodian during the current period.</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. 22349

**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 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", is written over a horizontal line.

*Acting Superintendent*