

REPORT ON EXAMINATION
OF
THE JEWISH HOME OF ROCHESTER SENIOR HOUSING, INC.,
d/b/a THE SUMMIT AT BRIGHTON
AS OF DECEMBER 31, 2003

DATE OF REPORT

MAY 16, 2005

EXAMINER

ROY R. ZABALA

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

George E. Pataki
Governor

Howard Mills
Superintendent

May 16, 2005

Honorable Howard Mills
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law and New York Public Health Law and in compliance with the instructions contained in Appointment Number 22335, dated March 11, 2005 attached hereto, I have made an examination into the condition and affairs of The Jewish Home of Rochester Senior Housing, Inc. d/b/a The Summit at Brighton, as of December 31, 2003 and submit the following report thereon. The Summit at Brighton is a not-for-profit Continuing Care Retirement Community licensed pursuant to the provisions of Article 46 of the Public Health Law.

Wherever the designations "the Community" or "Summit" appear herein without qualification, they should be understood to indicate the Jewish Home of Rochester Senior Housing, Inc. The examination was conducted at the offices of the Community at 2000 Summit Circle Drive, Rochester, NY 14618.

1. SCOPE OF THE EXAMINATION

The Community was formed in April, 1995. The previous examination was conducted as of December 31, 2000. This examination covered the period from January 1, 2001 through December 31, 2003. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2003 in accordance with Generally Accepted Accounting Principles (GAAP), as modified by the Department pursuant to Insurance Department Regulation 140 {11NYCRR350}, a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Community's independent certified public accountants. A review was also made of the following items:

- Community Documents
- Growth of the Community
- Financial Documents
- Board of Directors meeting minutes
- Market Conduct

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

Representatives of the New York Insurance Department and the New York Department of Health conducted a site survey of the Community's facility on October 19, 2004 pursuant to Section 4610 of the New York Public Health Law.

2. DESCRIPTION OF THE COMMUNITY

Summit is a Continuing Care Retirement Community as defined under Article 46 of the New York State Public Health Law, and has received a Certificate of Authority from the New York State Continuing Care Retirement Community Council effective June 5, 1996. The Community commenced operations on May 17, 1998.

Summit was designed to accommodate residents age 62 and older in independent living units. Each of the ninety-three (93) Summit units (apartments) has a kitchen, and each has emergency call systems and other safety features. The summit facilities include such common areas as dining rooms, lounges, a health club, a beauty/barber shop, library, auditorium, and administrative areas. In addition, Summit residents have access to the sixty (60) unit enriched housing (assisted living) facility, Jewish Home of Rochester Enriched Housing, Inc. (“Enriched Housing”) and full time skilled nursing care at the Jewish Home of Rochester (“Jewish Home”).

In exchange for an entrance fee and a monthly maintenance charge, the Community provides lifetime residence at Summit. The amount of the monthly fees is dependent on the type of apartment and type of contract.

Two different contract options are available for residents, both offering the lifetime right to live at Summit at Brighton. Each contract also permits, if medically necessary, residents to transfer to more intensive care at either the Enriched Housing or the Jewish Home facilities, although the monthly rate charged and permitted term of stay differs by contract.

Type A Life Care Contract

In addition to the residential services, when medically necessary, residents may receive skilled nursing home services at the Jewish Home or assistance with the activities

of daily living in an enriched housing apartment, at the same monthly fee the resident paid in the independent living apartment.

Entrance fee are due in two installments. Ten percent (10%) of the entrance fee is due when the life care contract is signed, while the remainder is to be paid upon the earlier of (1) the date the resident occupies the facility or (2) sixty (60) days from the date the contract is executed.

Entrance fee includes a residential component and life care component. During the first ninety (90) days after the resident pays the entrance fee in full, all amounts collected by the Community are fully refundable if the resident terminates the contract for any reason. At the end of the ninety (90) day period, the entrance fee will be reduced by a four percent (4%) administration fee and by two percent (2%) for the next three months. At the end of these three months, the remaining ninety percent (90%) of the residential component of the entrance fee will be refundable for the duration of the contract term. Summit will continue to reduce the refund of the life component by two percent (2%) for each additional month of residency until the life care component is fully amortized.

Type B Life Care Contract

In addition to residential services, when medically necessary, residents may receive Enriched Housing or Jewish Home services for a lifetime maximum of sixty (60) days, at the same monthly fee the resident paid while living in an independent living apartment. Thereafter, residents will pay the published fee for enriched housing or Jewish Home services.

Entrance fee are due in two installments. Ten percent (10%) of the entrance fee is due when the life care contract is signed, while the remainder is to be paid upon the earlier of (1) the date the resident occupies the facility or (2) sixty (60) days from the date the contract is executed.

A prospective resident pays an entrance fee for the right to use an independent living apartment at the Summit. During the first ninety (90) days after the resident pays the entrance fee in full, all amounts collected by the Community are fully refundable if the resident terminates the contract for any reason. At the end of the ninety (90) day period, the entrance fee will be reduced by a four percent (4%) administration fee and by two percent (2%) for the next three months. At the end of these three months, Summit will refund, before reduction, ninety percent (90%) of the entrance fee.

Summit is a tax-exempt organization under Section 501(c) (3) of the Internal Revenue Code.

A. Management

Pursuant to the Community's charter and by-laws, management of the Community is vested in a board of directors consisting of not less than seven nor more than eleven members. As of the examination date, the board of directors was comprised of eleven members. The directors as of December 31, 2003 were as follows:

Board of Directors

<u>Name</u>	<u>Position</u>
Etta K. Atkin Brighton, NY	Retired
Julian Gordon Brighton, NY	Retired
Joel Kellmanson Pittsford, NY	President, Atkell, Inc.
John Lovenheim Rochester, NY	Retired

Linda Oldfield Rochester, NY	Attorney, Harris Beach LLP
Harry Pinsky Rochester, NY	Retired
Irving Ruderman Brighton, NY	Community Resident
Arlene Schenker Rochester, NY	President, Greater Rochester Section of the National Council of Jewish Women
Myron Silver Pittsford, NY	Retired
Burton D. Tanenbaum Pittsford, NY	Attorney, Culley, Marks, Tanenbaum, Capell & Pezzulo
Adelaide Weinberg Rochester, NY	Retired

The board is required to meet once for an annual meeting, and once additionally each quarter, but may hold special meetings as desired. The board of directors of Summit met twenty-four times during the period of January 1, 2001 through December 31, 2003. A review of the minutes of the board of directors' meetings indicated that board meetings were generally well attended. However, it was noted that two members, Myron Silver and John Lovenheim, attended less than 50% of the meetings they were eligible to attend.

Members of the board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the Community. It is essential that board members attend regular meetings consistently and set forth their views on relevant matters so that the board may reach appropriate decisions.

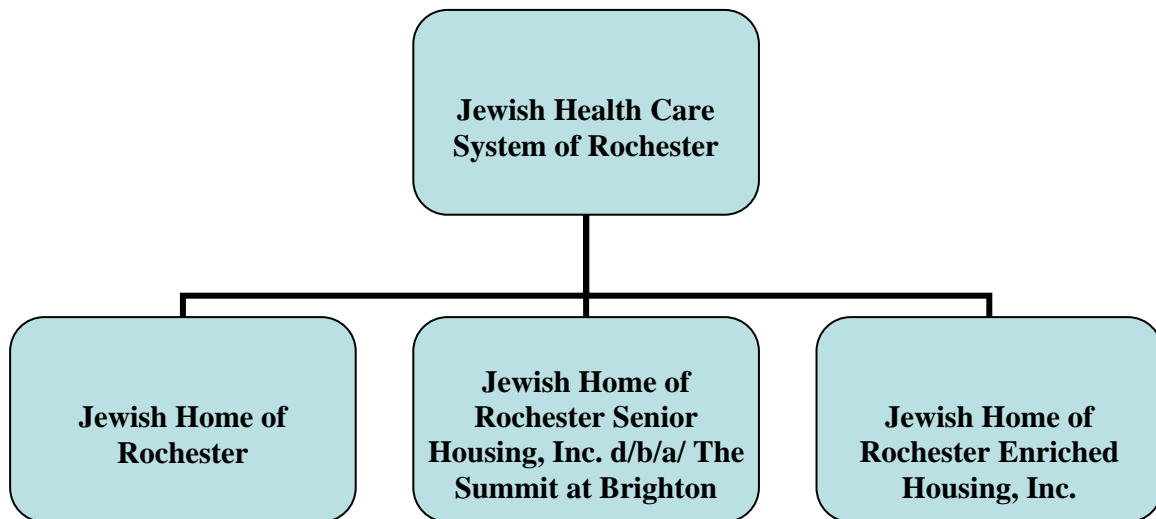
It is recommended that Directors Silver and Lovenheim improve their respective attendance at board of directors' meetings. Board members who are unable or unwilling to attend meetings consistently should resign or be replaced.

The principal officers of the Community as of December 31, 2003 are as follows:

<u>Officers</u>	<u>Title</u>
Harvey Finkelstein	Chief Executive Officer/President
Deborah McIlveen	Chief Financial Officer
Julian Gordon	Treasurer

B. Holding Company System

The structure of the Holding Company, as of the examination date, is as follows:



Jewish Health Care System of Rochester

Summit is a membership organization. The sole voting member of Summit is Jewish Health Care System of Rochester, Inc. (“Jewish Health Care System”). Jewish Health Care system is empowered to appoint the Board of Directors of Summit and to amend its Certificate of Incorporation and By-Laws.

Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor I)

Summit is incorporated as an affiliate of Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor I). However, the financial results of the two entities are reported on a consolidated basis within this report. The Commissioner of Health with the assent of the Superintendent of Insurance accepted this accounting treatment. In addition, management services are provided by Summit to Wolk Manor I for which Summit is reimbursed. However, as of the time of this examination, the Community was not able to produce to the examiners a formal written arrangement between the two entities.

It is recommended that the Community put in place a formal management agreement with its affiliate, Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor I).

Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor II)

On June 1, 2002, a management agreement was entered into between Jewish Home of Rochester Enriched Housing, Inc. (“a.k.a. Wolk II”) and Jewish Home of Rochester Senior Housing, Inc. Under this agreement, Summit manages, operates and maintains the facility. Wolk II pays a management fee equal to Summit’s marginal costs, including pre-opening costs and services provided by Summit. Marginal costs include fees, charges and expenses of Summit relating to the operation of Wolk Manor II.

Jewish Home of Rochester

The Community is operating under an informal agreement whereby the Jewish Home submits charges for management services rendered to Summit. This arrangement has not been incorporated into a written contractual relationship. There is no clear indication of what specific services the Jewish Home is required to perform in return for such charges.

It is recommended that the Community establish a formal management agreement with its affiliate, The Jewish Home of Rochester.

A similar recommendation was made in the prior Report on Examination.

C. Occupancy Rates

The following reflect the occupancy rates at each year-end from 2001 to 2003 for Independent Living Units:

Year End	<u>2001</u>	<u>2002</u>	<u>2003</u>
Occupancy Rate	98.9%	98.9%	94.6%

D. Disaster Recovery Plan

It was noted, that the Policy and Procedure for Resident Evacuation was not included in Summit's Fire Plan and Disaster Manual.

It is recommended that the Community include the Policy and Procedure for Resident Evacuation in Summit's Fire Plan and Disaster Manual.

E. Custodial Agreement

The Community was unable to provide the examiner with a copy of the custodial agreement entered into with Bank of New York. The Department regards this agreement as indicative of prudent business practices and recommends such agreement contain the following protective covenants and provisions:

1. The bank shall have in force, for its own protection, Bankers Blanket Bond Insurance of the broadest form available for commercial banks and will continue to maintain such insurance. The bank will give the Community 60 days written notice of any

material change in the form or amount of such insurance or termination of this coverage.

2. The bank will at all times give the securities held by the bank hereunder the same care the bank gives its own property of a similar nature.
3. Furnish the Community (at least quarterly) with a list of such securities showing a complete description of each issue, which shall include the number of shares or par value of bonds so held at the end of such quarter.
4. Maintain records sufficient to verify information we are required to report in Schedule D of the Annual Statement blank of the Insurance Department of the State of New York.
5. The bank shall furnish the Community with the appropriate affidavits in an acceptable form in order for the securities referred to in such affidavits to be recognized as admitted assets of the Community.
6. Access shall be during the bank's regular hours. Those persons who shall be entitled to examine, on the bank's premises, securities held by the bank and the bank's records related to those securities, shall be specified. An authorized officer shall furnish the bank with written instructions to that effect.
7. Written instructions hereunder shall be signed by any two of the Community's Authorized Officers specified in a separate list for this purpose which will be furnished to the bank from time to time signed by the treasurer or an assistant treasurer and certified under the corporate seal by the secretary or an assistant secretary.
8. In connection with any situation involving registration of securities in the name of a nominee of a bank custodian, the custodian agreement should empower the bank to take such action.
9. There should be a provision in the agreement that would give the Community the opportunity to secure the most recent report on the review of the custodian's system of internal controls, pertaining to custodian record keeping, issued by internal or independent auditors.

It is recommended that the Community maintain a custodial agreement for the safeguarding of its investments with its custodial bank. It is also recommended that such custodial agreement include the above enumerated protective covenants and provisions.

F. Accounts and Records

The Community was unable to provide documentation to support the allocation of shared expenses relative to the salaries of certain shared employees between the Community and the Jewish Home of Rochester.

It is recommended that the Community maintain support studies relative to the percentage allocation of expenses of shared employees between the Community and the Jewish Home of Rochester.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as determined by this examination. It is the same as the actuarial balance sheet submitted by the Community in May 2004, presented on a statutory accounting basis, pursuant to New York Insurance Department Regulation 140 {11 NYCRR 350}:

<u>Asset</u>	
Total current assets	\$ 396,718
Other cash and investments	7,514,344
Property, plant and equipment	23,159,923
Unamortized financing costs	1,717,212
Deferred marketing costs	<u>233,150</u>
Total assets	\$ <u>33,021,347</u>
 <u>Liabilities</u>	
Long term and short term debt	\$ 9,795,000
Subordinated loan	2,959,800
Total reserve liability	<u>19,254,956</u>
Total Liabilities	\$ 32,009,756
Net surplus, as of December 31, 2003	\$ <u>1,011,591</u>
Total liabilities and net surplus	\$ <u>33,021,347</u>
Ratio of net surplus to total liabilities	<u>3.2%</u>

It is noted that the asset values herein are reported on a statutory/ actuarial basis. As such, the values differ from the certified financial statements prepared by the Community's Certified Public Accountants. Also, there is an immaterial difference due to rounding.

B. Statement of revenue, expenses and net worth

The Statement of revenue and expenses is presented on a GAAP basis for the period January 1, 2001 through December 31, 2003.

Revenues	
Monthly maintenance fees	\$ 8,312,136
Other revenue from residents	104,408
Revenue from related organizations	3,768,760
Earned entrance fees (net of refunds)	1,737,001
Interest and dividend income	368,421
Net realized capital gains (losses)	(1,493)
Aggregate write-ins for other operating revenue	644,961
Non-operating revenue	<u>40,978</u>
Total revenues	\$ 14,975,172
Expenses	
Interest expense	\$ 2,022,330
Residence expense	
Facility expense	1,875,851
Dining	2,920,394
Health expense	1,959,661
Administration expense	981,659
Depreciation and amortization	2,865,620
Real estate tax	162,653
Aggregate write-ins for other operating expense	<u>3,831,141</u>
Total expenses	<u>16,619,309</u>
GAAP basis Net Income (loss)	\$ <u>(1,644,137)</u>

C. Changes in actuarial surplus

Surplus increased \$1,862,182 during the examination period, January 1, 2001 through December 31, 2003, detailed as follows:

Surplus per report on examination as of December 31, 2000			\$(850,591)
	Gains in Net Worth	Losses in Worth	
GAAP basis Net Income (loss)		(\$1,644,137)	
Statutory adjustment	\$3,506,319		
Net Increase in Actuarial Surplus			<u>\$1,862,182</u>
Surplus per report on examination as of December 31, 2003			<u>\$1,011,591</u>

4. MARKET CONDUCT REVIEW

The examination included a market conduct review focusing on the following major areas:

- a) Sales and advertising
- b) Disclosure statement
- c) Residency agreement

No problem areas were encountered during the review.

COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained six (6) comments and recommendations as follows (page numbers refer to the prior report):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<p>1. It is recommended that the board comply with its own by-laws and postpone or cancel board meetings at which a quorum does not exist.</p> <p>The Community has complied with this recommendation.</p>	6
<p>2. It is recommended that members on conference call and excused absences are recorded in the board minutes.</p> <p>The Community has complied with this recommendation.</p>	6
<p>3. It is recommended that board members attend meetings whenever possible.</p> <p>The Community did not comply with this recommendation. A similar recommendation is included in this report.</p>	6
<p>4. It is recommended that the Community establish a formal management agreement with its affiliate, the Jewish Home of Rochester.</p> <p>The Community did not comply with recommendation. A similar recommendation is included in this report.</p>	8
<p>5. It is recommended that the Community offer the Type B contract to all applicants.</p> <p>The Community has complied with this recommendation.</p>	12
<p>6. It is recommended that the Community change its policy to ensure all entrance Fees are returned within the time parameters defined by New York Public Health Law Section 4609(4).</p> <p>The Community has complied with this recommendation.</p>	12

SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
A.	It is recommended that Directors Silver and Lovenheim improve their respective attendance at board of directors' meetings. Board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	6
B.	It is recommended that the Community put in place a formal management agreement with its affiliate, Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor I).	8
C.	It is recommended that the Community establish a formal management agreement with its affiliate, The Jewish Home of Rochester.	9
D.	It is recommended that the Community include the Policy and Procedure for Resident Evacuation in Summit's Fire Plan and Disaster Manual.	9
E.	It is recommended that the Community maintain a custodial agreement for the safeguarding of its investments with its custodial bank. It is also recommended that such custodial agreement include the enumerated protective covenants and provisions.	11
F.	It is recommended that the Community maintain support studies relative to the percentage allocation of expenses of shared employees between the Community and the Jewish Home of Rochester.	11

Appointment No. 22335

**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:

Roy Zabala

as a proper person to examine into the affairs of

**The Jewish Home of Rochester Senior Housing, Inc.
d/b/a The Summit At Brighton**

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

Continuing Care Retirement Community

with such information as he shall deem requisite.

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

this 11 day of March 2005



Howard Mills
Acting Superintendent of Insurance

