

**NEW YORK INDEPENDENT LIVERY  
DRIVERS BENEFIT FUND**

**FINANCIAL STATEMENTS**

**YEAR ENDED  
DECEMBER 31, 2020**

**HOBERTMAN & LESSER**

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# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

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## **INDEPENDENT ACCOUNTANT'S REVIEW REPORT**

To the Board of Directors of  
New York Independent Livery Drivers Benefit Fund

We have reviewed the accompanying financial statements of New York Independent Livery Drivers Benefit Fund (a nonprofit organization), which comprise the statement of financial position as of December 31, 2020, and the related statements of activities and cash flows for the year then ended, and the related notes to the financial statements. A review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement whether due to fraud or error.

### ***Accountant's Responsibility***

Our responsibility is to conduct the review engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. Those standards require us to perform procedures to obtain limited assurance as a basis for reporting whether we are aware of any material modifications that should be made to the financial statements for them to be in accordance with accounting principles generally accepted in the United States of America. We believe that the results of our procedures provide a reasonable basis for our conclusion.

### ***Accountant's Conclusion***

Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in accordance with accounting principles generally accepted in the United States of America.

*Hoberman & Lesser CPAs, LLP*

New York, New York  
August 26, 2021

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Statement of Financial Position  
As of December 31, 2020

	<u>Total</u>	<u>Without Restrictions</u>	<u>With Restrictions</u>
<b>ASSETS</b>			
Cash and cash equivalents	\$ 475,334	\$ 475,334	
Investments	2,652,871	205,871	\$2,447,000
Due from Hereford Insurance Company	403,885	403,885	
Prepaid workers compensation insurance	648,944	648,944	
Prepaid management and liability insurance	18,250	18,250	
<b>Total Assets</b>	<u>\$4,199,284</u>	<u>\$1,752,284</u>	<u>\$2,447,000</u>
 <b>LIABILITIES AND NET ASSETS</b>			
<b>LIABILITIES</b>			
Deferred revenue	\$ 125,000	\$ 125,000	
Accrued expenses payable	296,370	296,370	
<b>Total Liabilities</b>	<u>421,370</u>	<u>421,370</u>	
 <b>Commitments and Contingencies</b>			
<b>NET ASSETS</b>			
Without restrictions:			
Undesignated	1,160,914	1,160,914	
Board designated for operations	170,000	170,000	
<b>Total Net Assets Without Restrictions</b>	<u>1,330,914</u>	<u>1,330,914</u>	
With restrictions	<u>2,447,000</u>		<u>\$2,447,000</u>
<b>Total Net Assets With Restrictions</b>	<u>2,447,000</u>		<u>2,447,000</u>
<b>Total Net Assets</b>	<u>3,777,914</u>	<u>1,330,914</u>	<u>2,447,000</u>
<b>Total Liabilities and Net Assets</b>	<u>\$4,199,284</u>	<u>\$1,752,284</u>	<u>\$2,447,000</u>

See Independent Accountant's Review Report and accompanying notes to financial statements.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Statement of Activities  
For the Year Ended December 31, 2020

	<u>Total</u>	<u>Without Restrictions</u>	<u>With Restrictions</u>
<b>Revenues</b>			
<b>Programs:</b>			
Membership fees	\$1,847,901	\$1,847,901	
Profit sharing on workers compensation policy	174,426	174,426	
Membership fee discount	( 125,000)	( 125,000)	
Fund's participation in membership fees	( 662,449)	( 662,449)	
Membership excess payments refunded	( 545,374)	( 545,374)	
<b>Total Programs</b>	<u>689,504</u>	<u>689,504</u>	
<b>Net Investment Return:</b>			
Interest income	53,287	53,287	
Realized gain	2,108	2,108	
Unrealized gain	8,907	8,907	
Investment advisory fee	( 8,414)	( 8,414)	
<b>Total Net Investment Return</b>	<u>55,888</u>	<u>55,888</u>	
<b>Total Revenues</b>	<u>745,392</u>	<u>745,392</u>	
<b>Program Expenses</b>			
Workers compensation policy	1,722,901	1,722,901	
Workers compensation – Hereford fee	125,000	125,000	
Website hosting	1,150	1,150	
Claims loss	270,000	270,000	
<b>Total Program Expenses</b>	<u>2,119,051</u>	<u>2,119,051</u>	
<b>Management and General Expenses</b>			
Administrative expenses	66,000	66,000	
Legal fees	48,000	48,000	
Accounting fees	12,400	12,400	
Bookkeeping fees	9,000	9,000	
Management liability insurance	19,985	19,985	
Other sundry expenses	5,738	5,738	
<b>Total Management and General Expenses</b>	<u>161,123</u>	<u>161,123</u>	
<b>Total Expenses</b>	<u>2,280,174</u>	<u>2,280,174</u>	
<b>Change in Net Assets</b>	( 1,534,782)	( 1,534,782)	
<b>Net Assets - beginning of year</b>	<u>5,312,696</u>	<u>2,865,696</u>	<u>\$2,447,000</u>
<b>Net Assets - End of Year</b>	<u>\$3,777,914</u>	<u>\$1,330,914</u>	<u>\$2,447,000</u>

See Independent Accountant's Review Report and accompanying notes to financial statements.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

<b>Cash Flows from Operating Activities</b>	
Change in net assets	(\$1,534,782)
<b>Adjustments to Reconcile Change in Net Assets to Net Cash Used in Operating Activities</b>	
Realized gain on investments	( 2,108)
Unrealized gain on investments	( 8,907)
<b>Changes in Operating Assets and Liabilities</b>	
Due from Hereford Insurance Company	290,745
Prepaid workers compensation insurance	( 648,944)
Prepaid management and liability insurance	( 1,536)
Accrued expenses payable	280,000
Deferred revenue	<u>125,000</u>
<b>Net Cash Used in Operating Activities</b>	<u>( 1,500,532)</u>
<b>Cash Flows from Investing Activities</b>	
Proceeds from sale of investments	2,145,920
Purchase of investments	<u>( 1,050,714)</u>
<b>Net Cash Provided by Investing Activities</b>	<u>1,095,206</u>
<b>Net Decrease in Cash and Cash Equivalents</b>	( 405,326)
<b>Beginning - Cash and Cash Equivalents</b>	<u>880,660</u>
<b>Ending - Cash and Cash Equivalents</b>	<u>\$ 475,334</u>

See Independent Accountant's Review Report and accompanying notes to financial statements.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

**1. Nature of Organization** New York Independent Livery Drivers Benefit Fund (the "Fund" or "Organization") is a not-for-profit organization created by the New York State Legislature. The Fund was incorporated in New York in 2009 for the principal purpose of securing the payment of full workers' compensation benefits to independent livery drivers that are killed, are victims of crimes or suffer certain covered catastrophic injuries while performing covered services. The Fund provides benefits to independent livery bases that are members of the Fund as those terms are defined by Section 6-G of New York State Executive Law and Section 18-c of the Workers' Compensation Law of New York State.

## **2. Summary of Significant Accounting Policies**

**Basis of Accounting** The financial statements of the Fund have been prepared on the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America.

**Impact of COVID-19** The COVID-19 pandemic has resulted in a widespread health crisis that has adversely affected the economies and financial markets worldwide. On March 1, 2020, New York City confirmed its first COVID-19 case. A citywide state of emergency was issued on March 7, and by March 20, Mayor de Blasio and Governor Cuomo issued executive orders closing non-essential businesses. Taxis and for-hire drivers were deemed essential and allowed to continue operating. However, demand for for-hire transportation declined significantly. As an example, for-hire trips declined by as much as 85% of their pre-COVID levels by the beginning of April in the city according to some statistics. These declines had a severe impact on the Fund's livery bases, requiring certain bases to close while others were unable to pay their membership fees and required assistance from the Fund (see Notes 12 and 13). Currently, there has been a reduction in COVID-19 cases throughout New York and businesses are starting to reopen. It is not possible for the Fund to predict the magnitude of any future adverse results of COVID-19 and its effects on its members at this time.

**Net Assets** Net assets, revenues and expenses are classified based on the existence or absence of imposed restrictions. Accordingly, the net assets of the Fund and changes therein, are classified and reported as follows:

Net Assets With Restrictions - pursuant to the Fund's mandate, restricted net assets will be maintained, as predicated based on New York State Executive Law and by the Board of Directors. This amount may increase or decrease based on the cost of the insurance premiums and insurance claims incurred, as determined by the Board of Directors.

Net Assets Without Restrictions are not subject to statutory or Board of Directors imposed stipulations.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

## 2. Summary of Significant Accounting Policies (Continued)

### **Cash and Cash Equivalents**

The Fund considers all highly liquid investments with an initial maturity of three months or less to be cash equivalents.

### **Investments**

Investments in Certificates of Deposit are carried at cost. Investments in U.S. Treasury Securities and U.S. Agency Securities are recorded at fair value on the Statement of Financial Position with unrealized gains or losses included in the Statement of Activities.

Investment transactions are accounted for on a trade date basis. Interest income is recorded as earned on the accrual basis. Investment returns are presented net of external investment expenses/fees.

### **Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Accordingly, actual results could differ from those estimates.

### **Revenue Recognition**

Independent livery companies are the members of the Fund providing benefits to affiliated drivers. The Fund determines, in conjunction with the insurance provider ("Hereford" or "HIC"), the annual member dues which are used to fund the workmen's compensation insurance. Additionally, Hereford and the Fund have entered into a profit-sharing agreement whereby the Fund participates in the profits and losses of said workmen's compensation insurance policy (the "Policy"). Pursuant to the agreement the Fund receives 25% of profits generated by the Policy over the last three prior years and is required to pay the portion of any claim in excess of \$1 million, as defined. The cumulative profit/loss is calculated at 45% of the annual premiums less the actual or estimated loss ratio of claims made and 15% of the claims incurred but not yet reported ("IBNR"). The profit sharing accrual is adjusted annually as the actual loss ratio of claims made changes from prior years. The IBNR factor will be reduced to zero thirty-six months after expiration of the policy year. If losses exceed 45%, the Fund will be required to rebate the excess amount over 45% through reductions in future profit sharing.

Hereford remits the Fund's net profit share amount, twenty-four months after the expiration of the Policy year. Payments are due within sixty days after each calculation due date.



# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

## 2. Summary of Significant Accounting Policies (Continued)

**Credit Risk** The Fund maintains cash balances and investments at financial institutions that are at times in excess of federally insured amounts.

**Income Taxes** The Internal Revenue Service ("IRS") has classified the Organization as exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and applicable state law. It has been classified as an organization that is not a private foundation under Section 509(a)(2) of the Internal Revenue Code and qualifies for deductible contributions as provided in Section 170(b)(1)(A). Income generated by activities that would be considered unrelated to the Organization's mission would be subject to tax, which, if incurred, would be recognized as a current expense. No such tax has been recognized as of December 31, 2020.

The Organization accounts for uncertainty in income taxes recognized in the financial statements using a recognition threshold of more likely than not as to whether the uncertainty will be sustained upon examination by the appropriate taxing authority. Measurement of the tax uncertainty occurs if the recognition threshold has been met. Management determined there were no tax uncertainties that met the recognition threshold.

**Contributed Services** Contributions of donated services that create or enhance non-financial assets or that require specialized skills, are provided by individuals possessing those skills, and would typically need to be purchased if not provided by donation are recorded at their fair values in the periods received.

During the year ended December 31, 2020, the Fund did not have any contributed services meeting the requirements for recognition in the financial statements.

**Fair Value Measurements** The fair value measurement standard provides a comprehensive framework for measuring fair value and expands disclosures for assets and liabilities reported at fair value. It sets forth a definition of fair value and establishes a valuation hierarchy. See Note 7 for a discussion of fair value measurements.

**Functional Expenses** The expenses have been summarized on a functional basis in the accompanying financial statements. Expenses which can be identified with the Fund's program for support functions are charged directly to the program.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

## 3. Prepaid Workers Compensation Insurance

During the year ended December 31, 2020, the Fund paid the first installment payment required by HIC for the 2021 premium in the amount of \$648,944, on behalf of the members.

## 4. Net Assets With Restrictions

The Fund has a mandate as stipulated by New York State Executive Law to accumulate restricted net assets equal to at least 50% of the cost of workers' compensation insurance. In addition, the Board of Directors, in its discretion, may reserve funds for potential future claims. At December 31, 2020, the statutorily imposed restrictions together with the Board's reserve for potential future claims, aggregated \$2,447,000.

In June 2021, as a result of a decrease in the cost of the workers' compensation policy, resulting from the decline in membership, the Board of Directors determined to reduce the restricted net assets to \$1,780,000 for 2021.

## 5. Due from Hereford Insurance Company

The amount due from HIC at December 31, 2020 is \$403,885.

The net profit sharing revenue and losses for 2018 through 2020 includes the annual 15% of the total workmen's compensation insurance policy premiums for claims incurred but not yet reported. At December 31, 2020, the amount of this contingent liability was approximately \$262,000.

## 6. Insurance Contract Modification – Hereford Fee

During 2020, the Fund and HIC entered into an agreement commencing January 1, 2020 in connection with the renewal of the insurance policy to reduce the minimum premium threshold to \$2,000,000. The agreement required the Fund to make a one-time payment in the amount of \$125,000 as a reduction of the Fund's 2017 profit sharing payment, which was paid during February 2021. In addition, the agreement was contingent upon there being no material change in loss experience by December 31, 2020.

## 7. Fair Value Measurements

The Fund's financial instruments consist principally of investments in U.S. Treasury Securities, U.S. Agency Securities, cash equivalents and certificates of deposits. The fair value of a financial instrument is the amount that would be received in an asset sale or paid to transfer a liability in an orderly transaction between unaffiliated market participants. Assets and liabilities measured at fair value are categorized based on whether the inputs are observable in the market and the degree that the inputs are observable. The categorization of financial instruments within the valuation hierarchy is based on the lowest level of input that is significant to the fair value measurement. The hierarchy is prioritized into three levels (with Level 3 being the lowest) defined as follows:

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

**7. Fair Value Measurements**  
(Continued)

*Level 1:* Quoted prices in active markets for identical assets or liabilities that the entity has the ability to access.

*Level 2:* Observable inputs other than prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated with observable market data

*Level 3:* Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets and liabilities. This includes certain pricing models, discounted cash flow methodologies, and similar techniques that use significant unobservable inputs.

The Fund's investments in U.S. Treasury Securities, U.S. Agency Securities and certificates of deposit are valued at fair market value and are classified as "Level 1" or "Level 2" in the fair value hierarchy. The Company does not have any financial instruments in the "Level 3" category.

There have been no changes in Levels and no changes in valuation techniques for these assets or liabilities for the period ended December 31, 2020.

Following is a description of the valuation methodologies used for assets measured at fair value:

*U.S. Treasury Securities and U.S. Agency Securities:* Valued at the closing price reported in the active market in which the individual securities are traded.

*Certificates of deposit:* Valued at amortized cost, which approximates fair value.

*Cash equivalents:* Included in cash and cash equivalents, and are valued based on the short-term nature of the financial instrument.

Investments at fair value as of December 31, 2020 are as follows:

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
U.S Treasury Securities		\$1,631,652		\$1,631,652
U.S Agency Securities		324,664		324,664
Certificates of deposit		696,555		696,555
Cash and Cash equivalents	<u>\$475,334</u>	_____	_____	<u>475,334</u>
<b>Total Investments</b>				
<b>at Fair Value</b>	<u>\$475,334</u>	<u>\$2,652,871</u>	<u>\$ -</u>	<u>\$3,128,205</u>

Net unrealized gains amounted to \$8,907, for the year ended December 31, 2020.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

**8. Financial Assets Available to Meet Cash Needs**

The Fund's financial assets available within one year of the accompanying statement of financial position for general expenditures are as follows:

Financial assets, at year-end	
Cash and cash equivalents	\$ 475,334
Certificates of deposit and time deposits	696,555
Investments in U.S. Treasury Securities	1,631,652
Investments in U.S. Agency Securities	324,664
Due from Hereford	<u>403,885</u>
Financial assets available at December 31, 2020	3,532,090
Less those unavailable for general expenditures within one year, due to:	
Net assets with restrictions	<u>2,447,000</u>
Amounts available for general expenditures within one year	<u><u>\$1,085,090</u></u>

As part of the Fund's liquidity management, it has a policy to structure its financial assets to be available as its general expenditures, liabilities, and other obligations come due.

**9. Deferred Income**

The Fund and Hereford agreed to a \$125,000 discount for the final 2020 installment payment. However, the Fund and Hereford agreed that the discount would be reflected as \$13 for each vehicle insured in 2021.

**10. Commitments and Contingencies**

**Consulting Agreement**

The Fund has entered into a consulting agreement with an individual for an annual fee of \$66,000 whereby the individual provides all administrative functions including tracking of Hereford's workers' compensation claims, and reporting Fund activities to the board of directors. The Agreement can be terminated by either party at any time.

**Legal Services**

In addition, the Fund has entered into an agreement with an attorney for an annual fee of \$48,000 to act as general counsel for the Fund. The agreement can be terminated by either party at any time.

**Contingency**

On August 1, 2019, a panel of three Commissioners of the Workers' Compensation Board ("WCB") determined that the claim made by the driver of a black car vehicle who received a dispatch from an independent livery base is covered by the Fund as a result of work-related injuries he sustained from a crime during said dispatch in March, 2018. The panel's decision reversed the Workers' Compensation Law Judge's March 28, 2019 decision, which disallowed the claim in its entirety. The Fund believes the panel's decision is incorrect as the law specifically states that only drivers of a livery vehicle are covered by the Fund and that the law specifically excludes drivers of black cars.

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

## 10. Commitments and Contingencies (Continued)

### Contingency (Continued)

Counsel for the Fund along with counsel for Hereford had prepared an application for full board review of the claim to the entire panel of Commissioners of the WCB. The WCB denied such application. Counsel for the Fund along with counsel for Hereford then filed an appeal to the Appellate Division in and for the 3rd Judicial Department of the State Supreme Court. On June 24, 2021, the 3rd Judicial Department affirmed the decision of the WCB. Counsel for Hereford is in the process of filing an application seeking leave to appeal to the New York State Court of Appeals, the highest court in the State of New York. Since the New York State Court of Appeals only grants leave in a limited number of circumstances, the likelihood is that the decision at issue will stand. Accordingly, the Fund is making plans moving forward as if this is the new status of the law (coverage for black car drivers when a dispatch comes from a member livery base and the driver sustains one of the statutorily enumerated injuries). The Fund is currently working with Hereford to discuss ways to address the additional risk exposure due to the unanticipated coverage of black car drivers who receive dispatches from member livery bases as well as discussing the best methodology by which to charge member livery bases for each trip they dispatch to a black car driver.

Hereford has indicated that there are currently eight cases for which this new scenario now applies, for which they are liable and for which their claim adjusters have determined the total expected claim costs. One of the claims is in excess of the \$1 million threshold for which the Fund is required to pay the claim. Accordingly, the Fund has accrued \$270,000 in the accompanying financial statements for the year ended December 31, 2020, representing the amount in excess of the \$1 million threshold.

## 11. Accrued Expenses Payable

Accrued expenses payable at December 31, 2020 consist of the following:

Accounting	\$ 12,400
Bookkeeping	2,250
Administrative expenses	5,500
Legal fees	4,000
Investment advisory fees	2,220
Claims loss	<u>270,000</u>
<b>Total</b>	<b><u>\$296,370</u></b>

# NEW YORK INDEPENDENT LIVERY DRIVERS BENEFIT FUND

Notes to Financial Statements  
Year Ended December 31, 2020  
(See Independent Accountant's Review Report)

## **12. Fund's Participation In Membership Fee**

During 2020, as a result of COVID-19 and the resultant significant decrease in demand of for-hire transportation, certain members were unable to pay their membership fees and were facing cancellation of their workers compensation policies. In connection therewith, the Board of Directors authorized the first installment payment due HIC totaling \$662,449 for the amounts owed by those members who were delinquent.

## **13. Membership Excess Payments Refunded**

During December 2020, the Board of Directors approved the refund to members which paid the first and part of the second installment payments for workers compensation, that were not part of the Fund's participation in membership fees (see Note 12). The total transferred to Hereford to be refunded to certain members was \$545,374.

## **14. Subsequent Events**

The Organization has considered subsequent events and transactions from December 31, 2020 to August 26, 2021, the date the financial statements were available to be issued.

During March 2021, the Board of Directors authorized the 2021 second installment payment to Hereford on behalf of the Fund's members in the amount of \$310,731.