

In the Matter of the Merger of National Mutual Benefit  
with and into Western Fraternal Life Association by  
National Mutual Benefit and Western Fraternal Life Association,

PROPOSED DECISION

Petitioners.

Case No. 20-C43723

Amy J. Malm, Hearing Examiner, Presiding

APPEARANCES

For the Office of the

Commissioner of Insurance:

Steven J. Junior, Insurance Program Manager  
Richard Wicka, Chief Legal Counsel  
Levi Olson, Insurance Financial Examiner – Chief  
Mark T. McNabb, Insurance Financial Examiner - Chief  
125 South Webster Street  
Madison, Wisconsin 53703

For the Petitioners:

Western Fraternal Life Association

Todd Martin  
Stinson, LLP  
50 South Sixth St., Suite 2600  
Minneapolis, Minnesota 55402

Craig Van Dyke  
President and Chief Executive Officer  
Western Fraternal Life Association  
1900 First Avenue NE  
Cedar Rapids, Iowa 52402

Other appearances:

National Mutual Benefit

Noreen Parrett  
Parrett Law, LLC  
10 East Doty Street, Suite 403  
Madison, Wisconsin 53703

Daniel Shinnick  
President and Chief Executive Officer  
National Mutual Benefit  
6522 Grand Teton Plaza  
Madison, Wisconsin 53719

PRELIMINARY

Pursuant to a Notice of Hearing dated October 20, 2020, a hearing was held by teleconference on or about 2:00 p.m. on November 11, 2020, to determine whether the Petitioners' plan for the merger of National Mutual Benefit with and into Western Fraternal Life Association, and the latter's simultaneous name change to BetterLife and redomestication from Iowa to Wisconsin under the Agreement of Merger entered into on the 24th day of January, 2020, by and between National Mutual Benefit and Western Fraternal Life Association (the "plan") should be approved. Based on the record, the Hearing Examiner makes the following:

PROPOSED FINDINGS OF FACT

(1) Western Fraternal Life Association, 1900 First Avenue NE, Cedar Rapids, Iowa 52402, is a fraternal benefit society exempt from federal taxation under Section 501(c)(8) of the Internal Revenue Code domiciled in Iowa and National Mutual Benefit, 6522 Grand Teton Plaza, Madison, Wisconsin 53719, is a fraternal benefit society exempt from federal taxation under Section 501(c)(8) of the Internal Revenue Code domiciled in Wisconsin (the Petitioners).

(2) The Petitioners filed with the Office of the Commissioner of Insurance an application for approval of the plan.

(3) The Petitioners were served with a Notice of Hearing.

(4) The Petitioners fulfilled the filing requirements of s. 614.73 (3), Wis. Stat.

(5) The plan conforms to the provisions of Chapter 614.

(6) The supreme governing body of National Mutual Benefit, which is its Board of Directors, unanimously approved the plan on January 18, 2020 and reaffirmed this approval on June 16, 2020.

(7) The supreme governing body of Western Fraternal Life Association, which is its National Convention, conducted a vote by the Delegates to its National Convention, by mail and electronically, from April 25 to May 26, 2020. Of the 177 Delegates to the National Convention of Western Fraternal Life Association, 110 voted in favor of merger, 49 voted against, and 18 either did not vote or their ballots were not received. The participation of 159 Delegates in the vote represents a 90% participation rate among the National Convention Delegates eligible to vote on the merger. The 110 votes for the merger constitute 69% of the ballots cast and the 49 votes against the merger constituted 31% of the ballots cast.

(8) The Office of the Commissioner of Insurance conducted an investigatory review of the vote of the Delegates to the National Convention of Western Fraternal Life Association and this review did not disclose any impropriety in the vote, nor any evidence that the conduct of tabulation lacked integrity.

(9) During the hearing, in response to a specific question from the Hearing Examiner, Mr. Craig Van Dyke, President and Chief Executive Officer stated that there were no plans for Western Fraternal Life Association, as the survivor of the merger, to merge or sell any lodge buildings.

(10) The plan is just and equitable to the members of each fraternal.

(11) The effect of the acquisition of control will not be to create a monopoly or substantially to lessen competition in any type or line of insurance in Wisconsin.

(12) The requirements of s. 611.223, Wis. Stat., concerning the redomestication of Western Fraternal Life Association from Iowa to Wisconsin have been met.

#### DISCUSSION

Several comments were received by OCI from policyholders of Western Fraternal Life Association both in writing and at the hearing. I want to express my appreciation for the level of engagement and commitment the commenters showed as fraternal members. Among other things, these policyholders raised concerns over the way the proposed merger was communicated to policyholders and suggested that the voting procedure was not fair and did not represent the true opinions of delegates. Commenters raised additional issues regarding non-insurance benefits of the fraternal, including the maintenance of local lodges, that ultimately are not relevant to the statutory standards for approval so I will not address them in the proposed decision.

I note that it appears from the comments OCI received that management of Western Fraternal Life Association could have done a better job of communicating with members on some issues. It certainly seems as if some members did not feel their concerns were heard or

addressed. That being said, the only communications that ultimately matter for OCI's analysis are communications regarding the merger and the voting procedures. I find no deficiencies with respect to those communications that would cause any concerns regarding the vote or its outcome. Ninety percent of delegates cast a vote in this matter which suggests that delegates were properly informed on the merger and its effects and were engaged enough to vote on the matter.

With regard to comments regarding the vote, OCI thoroughly investigated both the voting procedures and tabulation. OCI discovered no evidence of impropriety in the voting and no evidence of impropriety in the tabulation. There is no evidence in the record to conclude that the voting was unfair and the only conclusion that can be reached, based on the evidence, is that 69% of delegates of Western Fraternal Life Association voted to approve the merger. This comfortably meets the requirement that two-thirds of the delegates approve the merger. While a group of members are vocally opposed to the merger, the required supermajority of the delegates has indicated their support for the merger through their vote.

For these reasons, I find that the proposed merger was properly approved by members and that the merger meets the requirements for approval under Wisconsin law.

#### PROPOSED CONCLUSION OF LAW

(13) The proposed findings of fact set forth above establish that the requirements of ss. 601.41 (5), 611.223 and 614.73 and chs. 227 and 617, Wis. Stat., have been satisfied and approval of the plan should be granted.

#### PROPOSED ORDER

NOW, THEREFORE, based upon the findings of fact and conclusion of law, I hereby recommend that:

(14) The Petitioners' request for approval of the plan for acquisition of control should be approved, subject to the following conditions subsequent:

- a) Western Fraternal Life Association files with the OCI the agreed post-merger Articles of Incorporation certified by the Secretary or an Assistant Secretary of the fraternal.
- b) Western Fraternal Life Association files with the OCI the agreed post-merger Bylaws certified by the Secretary or an Assistant Secretary of the fraternal.
- c) Western Fraternal Life Association, as survivor of the merger under the new name of BetterLife, shall give the Office of the Commissioner of Insurance at least 90 days' prior written notice of any plans or proposals to sell any lodge properties before placing any such properties for sale.

Dated at Madison, Wisconsin, this 30th day of November, 2020.



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Amy J. Malm  
Hearing Examiner