

# **Possible Wrongdoing on Accounts of Craig Van Dyke, Dan Shinnick, and the Western Fraternal Life Board of Directors During the Consolidation of Western Fraternal Life and National Mutual Benefit**

## **Introduction**

The purpose of this document is to call into question the perceived actions of Craig Van Dyke, President of Western Fraternal Life, the Western Fraternal Life Board of Directors, and Dan Shinnick, President of National Mutual Benefit. All matters within this document are designated only to be used in the review of the handling of the proposed merger of Western Fraternal Life and National Mutual Benefit. Each instance will be issued in chronologic order, insomuch as is possible, ranging from July of 2019 to the current date. Information was gathered through various members and former officials of Western Fraternal Life, District Directors of Western Fraternal Life, and both President Craig Van Dyke and President Dan Shinnick. Insofar as our knowledge, this document is accurate and complete.

## **Introduction of Governance Changes and Potential Psychological Manipulation of Membership During the 2019 WFL National Convention in Green Bay, WI. July 17-19, 2019**

The day prior to the opening of the 29<sup>th</sup> National Convention of Western Fraternal Life Association, a combination of the Board of Directors of Western Fraternal Life and President Craig Van Dyke addressed the Pre-Convention Committee with a proposed resolution of governance change to be brought to the floor of the Convention for discussion on July 17, 2019. At this point, the Bylaws stated that all matters that deal with “Bylaw changes or amendments” must be “submitted to the Pre-Convention Committee by April 1 of the Convention Year” (now reads January 1 of the Convention year). Based on this, the Pre-Convention Committee refused to accept the submission and voted to pass it back to the Board of Directors. No action was known to be taken by the Board of Directors at this time. However, off the record (as actual

proceedings had not begun), the Delegates were presented with a multi-hour unscheduled forum during our first night before the Convention. The discussion dealt with declining numbers at Convention and a plausible “change” that never was fully defined. This night was usually reserved for social activities and an opportunity to catch up with our brothers and sisters we may not have seen over the previous four years. No Convention business has ever been formally discussed at the dinner and social on the night before day one of the Convention. Some delegates were still in transit and were not even present. Nonetheless, on Wednesday evening, July 17, there was a lengthy and unrecorded discussion about the need of governance change in a very ambiguous fashion. Joe Annotti, who at that point was with the Fraternal Alliance, gave a lengthy, but rather cryptic, talk about the need of change in our program. Mr. Annotti has no connection with WFL; he is not a member, employee, or contractor with our organization. Afterward, a question and answer session met this topic with a large amount of opposition to a governance change. Many of the Delegates’ questions simply went unanswered by Mr. Van Dyke. As this was all off the record, it is impossible to bring up documentation to support these occurrences. In some peoples’ opinion, this pre-planned action was essentially designed to present the Delegates with a change that may not be well received, but to have no record of the presentation as to permit a measure of defense against accusation. In others’ opinion, it was an attempt to circumvent the Pre-Convention committee and try to pass a major change without following proper procedure.

The next day, business took place as usual, aside from a large part of President Craig Van Dyke’s and Parliamentarian Todd Martin’s (who drafted the new proposed Merger Agreement) opening addresses dealing with the same ambiguous “change” discussed the night before. We then listened to a lecture from Joe Annotti that now composes nearly ten pages of the Convention minutes. Within this lecture, topics of doing away with traditional governance, company mergers and good merger partners, the importance of mergers, and a specific statement of *“I can’t really say too much about the one (merger) I heard yesterday but it is incredibly exciting and will be announced later this year”* were all stated. These statements all could have been designed to plant seeds for later discussions of governance change and mergers of companies within our own organization.

Friday, July 19, the Board of Directors, not the Pre-Convention Committee, presented a resolution, not a Bylaw change, to the floor of the Convention. To an extent of knowledge, there are no direct provisions or prohibitions of the Board of Directors bringing a resolution to the floor during a National Convention. This resolution was as follows:

*“The Board of Directors moves the Convention to charge the Board of Directors to further research and gather information about the direct election and governance structure and bring recommendations back to the delegates.”*

As written, there were no immediate changes, simply a charge to “research and gather information” on new governance structures. This resolution was inappropriate and invalid as pointed out by multiple Convention Delegates including a Delegate who is a past President of Western Fraternal Life, as it is already the duty of the Board of Directors to engage in such actions that it deems in the best interest of the membership. During the discussion allotted, members of the Western Fraternal Home Office once again made allusions to a merging opportunity during discussion, as Vice President of Information Technology and Secretary Don Nieland stated, *“This is something that comes up that we want to do before its too late. We’ve heard about types of mergers being done too late when you don’t have any bargaining power.”*

Overall, matters in the Convention were performed in a manner that hinted towards the very decisions we were faced with during 2020. From a matter of perception, it seems as if these discussions were used in order to bring topics of further discussion into the Delegates minds; however, they were not openly discussed in a straight-forward manner so as to allow the Delegates opportunity for discussion and debate on the Convention floor as clearly intended by our Bylaws to occur whenever possible. Such activity could hold a psychological implication of familiarity, and as there was no specific discussion of the unannounced merger, it could have been considered to facilitate future decisions of the Delegates. In no fashion should much of this discussion have taken place, as the President, members of the Home Office, and the Board of Directors had full knowledge of the possibility of a merger with National Mutual Benefit at this

time. A former director of Western Fraternal Life was assured of this by President Van Dyke verbally, as he had stated they had been working on the merger since February of 2019. From an ethical standpoint, these discussions might be perceived as manipulative, as the future voting Delegates had now observed prior related discussion on the matter.

### **Primary and Direct Contacting, and Persuasion of Individual Members**

As soon as the proposed merger and Bylaw changes were made public on Monday, February 24, 2020, President Van Dyke began immediately contacting individuals directly in order to present his opinions on the merger. Some of these contacts took place within seven days of the merger announcement. Multiple Delegates have reported being contacted by President Van Dyke before any contact was made by them to the Home Office. In other words, President Van Dyke started calling Delegates to, in part, share his pro-merger opinions with them and “campaign” for their yes vote. This action was incorrect in the opinion of many members. While President Van Dyke did usually offer to answer questions during these calls, there is not a single case known in which he did not present his own opinions on the merger. In his words, President Van Dyke was “...trying to call as many people as I (President Van Dyke) can just to...see if there’s any questions I could help answer on any of this....” As President Van Dyke has stated multiple times that he is the only employee from Western Fraternal Life that is guaranteed a position in the new company, he is the only member of the process that holds the possibility to gain financially from the new merger. President Van Dyke approached a situation in which a financial conflict of interest appears to be present, and instead of removing himself from the situation, he actively attempted to secure affirmative votes for such action. This is not only inappropriate, but in possible violation of the Western Fraternal Life Code of Ethics. For review, the standing Code of Ethics (adopted April 23, 2016) states:

*“Act with honesty and integrity, avoiding actual or apparent conflicts of interest in personal and professional objectives. Any potential conflict of interest should be disclosed to Western and resolved in a manner that is in the best interests of Western and its members.”*

This Code of Ethics was signed by all members of the Board of Directors and President Craig Van Dyke. In addition, President Van Dyke and the Board of Directors were the only individuals with contact information that permitted them to communicate with members, as all other members were denied any contact information of Delegates of the 2019 National Convention. It is of special importance to also consider that all members of the Board of Directors were mandated to support the merger, regardless of personal voting record or convictions. In that regard, only pro-merger contacts could be made on a wide spread scale. When asked directly about the possible cons of the merger, President Van Dyke stated on multiple occasions that “there aren’t really many.” This could be considered an abuse of power by President Van Dyke in order to sway this vote towards a merger, as no converse feelings were able, or permitted, to be shared on a large scale. At worst, it could be considered fraud, as all agreements contain both pros and cons, and he has the duty as WFL president (and special knowledge as WFL’s former treasurer) to disclose all material facts and data without misrepresentation to the Supreme Governing Body (the Delegates of the Convention).

### **Initial Publications and Documents**

The initial mailing of materials to Delegates included multiple pamphlets and documents advocating the merger to the Delegates, with an enclosed Agreement of Merger for review. The enclosed agreement was in the unfiltered legal style of documentation, with no supplementary information of the exact changes that would be made within the company in easier to understand terms. This left many members feeling confused or simply giving up on understanding what this merger truly was. Members were verbally assured on multiple occasions that “not much will change” during this process. In addition, many of the elderly membership found these documents

difficult to read due to small print, and as such were not able to read all of the portions of the document. The initial online publication of these legal documents to be voted upon was not easily accessed to those without technological savvy, as there were multiple windows and links that had to be clicked in order to reach the legal documentation. The legal document online was inexplicably separated into four “documents”. Thus, one might only read the one titled “merger agreement” since that is the only one that the materials and statements of Mr. Van Dyke continually discussed and referenced. It was not clear unless the documents were able to be read in entirety that the Agreement of Merger included the newly proposed Articles of Incorporation and Bylaws, as they were simply referenced within the Agreement of Merger.

### **Written Legal Threat of a Member**

Shortly after the merger was announced, Delores E. Seymour, a member of WFL Jan Zizka Lodge #67, posted questions on the NMB-WFL Merger website. She was subsequently phoned by Craig Van Dyke. They had a conversation in which Ms. Seymour asked several questions and raised several issues. Unfortunately, Mr. Van Dyke did not answer or explain these questions and issues well enough to reassure her. On March 27, 2020, Ms. Seymour sent letters to the attention of the Wisconsin Commissioner of Insurance, as well as to the Iowa Insurance Commissioner, and she cc'd the Oklahoma Insurance Commissioner. Within the letter she stated, among other issues,

*“Some WFL members feel there was a high possibility WFL’s seven directors were encouraged to approve the consolidation by an assurance of substantially increased compensation for the four WFL directors who will “transition” to the “:new” Corp. (Note: NMB’s Form 990 filed publicly with the IRS shows NMB’s current directors received compensation ranging from \$48-50,000.00 each in 2018.) WFL’s directors currently receive far less compensation.”*

She received no correspondence from Iowa, but she was contacted by a member of the office of the Wisconsin Commission of Insurance about her concerns and advised that they would be submitting her letter to Western Fraternal Life (President Craig Van Dyke, the Western Fraternal Life Board of Directors, and Legal Counsel Todd Martin of Stinson LLP) and requesting a response. Shortly thereafter, Ms. Seymour received an overnight Federal Express letter signed by Craig Van Dyke and Todd Martin that stated (regarding the above excerpt from her letter):

*“This is a false and potentially libelous statement about the WFL Board of Directors. It suggests, among other things, breach of fiduciary duty and is entirely baseless. There is nothing in the agreements setting compensation for the future board. This member has cited nothing of the sort other than stating that “some WFL members feel” that misconduct occurred.*

*WFL, its leadership, and its directors are prepared to defend to the fullest their actions and pursue any further false and libelous statements by this member or others.”*

A threat of this nature is baseless. Delores E. Seymour stated that “some WFL members feel there was a high possibility” there was assured increased compensation of directors who were transferred to the new company. In her statement, no party was identified specifically that felt this way, or that there was any irrefutable evidence of any wrongdoing at this time. Even so, President Van Dyke, Legal Counsel Todd Martin, and the WFL Board of Directors found no issue in making a threat to “pursue any further false and libelous statements by this member or others.” In retrospect, this shows that the parties stated were intentionally making an allusion to potential legal action against Delores Seymour on a claim made by an unidentified party on a stated “baseless” statement. This is a ridiculous action against a 70-year, third generation member of the organization that went through the proper channels to address concerns from members. This letter was sent for review to the Iowa and Wisconsin and Oklahoma Insurance Commission offices only, and as such Delores Seymour was utilizing the proper channels guaranteed to her by her first amendment rights without making public statements that could be

considered libelous. These tactics might be considered as intimidation in order to silence a member questioning the Board of Directors and President of Western Fraternal Life. Further, there is some truth in Ms. Seymour's statements because the proposed Bylaws place the determination of the salaries of the new board solely within the discretion of that new board with no other party or entity to challenge any amount set by that board. Additionally, there is evidence of a breach of fiduciary duty by the Board of Directors in another area, as will be discussed subsequently in the section pertaining to the District 7 Zoom meeting.

### **Publication of the Proposal in the Western Fraternal Life *Fraternal Herald***

As per Western Fraternal Life's Bylaws, Article X, Section 56, Paragraph C:

*“Publication of a notice containing: 1) an exact statement or text of the proposal to be voted upon; 2) a brief explanation thereof; 3) a return day on or before which the ballot must be received in the Home Office; and 4) instructions on the method of casting and returning the ballot. Such notice shall appear in the two **Fraternal Herald** issues immediately prior to the first day of the month in which the return day occurs.”*

The actual publication from the April Issue of the *Fraternal Herald* (the March and April publication were not entirely the same) read:

*“The Board of Directors is submitting to the delegates of the 2019 Convention the following resolution for your consideration.*

*RESOLVED, that the Western Fraternal Life Association Convention approves the Agreement of Merger, merging National Mutual Benefit with and into Western Fraternal Life Association dated January 24, 2020.*

*The Board of Directors has explored several options to grow our society and sustain our viability for current and future members. Of the options considered, it was determined that merging with National Mutual Benefit would be the best option.*

*Voting will start on April 25, 2020 and end on May 26, 2020. To ensure maximum participation and accuracy throughout the election process, Western Fraternal has contracted with Election-America as our secure service provider for this election. Election-America will mail to each delegates' last known address or email address, instructions for completing the electronic ballot, and if you choose not to vote electronically, how to receive a paper ballot on April 21, 2020. A help desk will be available at Election-America to answer any of your questions.*

*The number of votes needed to pass this resolution is "a two-thirds vote" of the qualifying number of ballots returned. If two-thirds of the ballots have not been returned by May 26, the vote may be extended up to 30 days.*

*A report of the canvass and certificate of the results will be published on the Western Fraternal website and in the **Fraternal Herald** as soon as practicable."*

According to the Bylaws, if these conditions were met, they were met at a minimum. Many members feel the publication did not fully meet the requirements of the Bylaws for the following reasons:

- The published account was not an exact statement or text of the proposal. An exact statement or text of the proposal would be the Agreement of Merger (including the proposed Articles of Incorporation and Bylaws in entirety).
- There was no brief explanation of the exact statement or text, only an explanation of why this was being considered.
- When votes were received by the return day, they were received at the voting services headquarters (here stated as Election-America), not at the Home Office.
- While the reference was made that a help desk was available to answer questions, the contact number for this help desk was not published in the Fraternal Herald and was not provided in the voting envelope sent to each Delegate. A single e-mail sent actually

provided members with a help desk number. It was attached to the same statement issued in the *Fraternal Herald* (April Edition), only through an email delivery system.

- During the March publication, the dates of the vote were stated as April 15, 2020 through May 15, 2020. In the April publication, this was changed to April 25, 2020 through May 26, 2020. While this was stated to be done to comply with Iowa code, this means that these dates were not published for two consecutive issues of the *Fraternal Herald*, thus invalidating the prior publication. In other words, there should have been another issue of the *Fraternal Herald* containing these new dates before the vote took place. Keep in mind that the May publication of the *Fraternal Herald* does not suffice, since the Bylaws state “*prior to the first day of the month in which the return day occurs.*”
- The company “Election-America” was not used. Instead, YesElections, now powered by Election-America, was the service being used. If someone decided to search for Election-America online, they would find no company of the sort, nor be redirected to YesElections. When “Election-America” is searched in Google, the world’s leading search engine, the only possible indicator is a featured excerpt from a website that states “Election-America is now YesElections.” If the company is searched on Bing, the second most popular search engine worldwide, members were directed towards elections for the Illinois State Bar Association and the Pension Reserves Investment Management Board. This could have kept individuals from ensuring that their vote was counted. In this time of rampant internet fraud, a different company name would reasonably be a cause for alarm in reasonable and prudent Delegates. No statement of this was issued in the *Fraternal Herald*, only over e-mails sent after April 25, 2020 at 8:00 A.M. As all voting members may not have had access to or been able to read this via e-mail, some could have faced issues with voting. The paper ballot also had no call number for questions, and once it was sent in the mail, members could have had no way to ensure that their vote was counted.

**District Meetings and Changes Due to the Current COVID-19 Pandemic (Special Reference to District 7 Meeting (Colorado, Kansas, Louisiana, Oklahoma, and Texas))**

Meetings to discuss this proposed consolidation of companies were designed to take place in person in each of the seven districts of WFL. With the onset of the current pandemic, these meetings were transitioned to online Zoom conferences (except for District 5 (Illinois, Ohio, Pennsylvania, and Michigan except Upper Michigan) who had their meeting before the CDC guidelines were in place). Unfortunately, these transitions were not seamless. Technical difficulties evident by recordings of the meetings, individuals without adequate internet access speeds in order to attend (let alone speak in) these meetings, and altered design of the procedures of the meeting from the norm caused inhibited and inadequate conversation in the minds of many members. Meetings would have normally been held in a format in which every member was able to chime in on individual topics as they came to discussion. Instead, Delegates were called on Lodge by Lodge, and hostility met members when they tried to add comments otherwise. In the District 7 meeting, members took to the chat feature of Zoom in order to make comments on topics of discussion. President Van Dyke asked members to stop doing so, as he said it was somehow interfering with conversation. Eventually, President Van Dyke yielded to the members. However, it is important to point out that the final Zoom meeting, District 2 (Wisconsin and Upper Michigan), the only meeting to take place after District 7, had this chat feature disabled for their meeting, possibly further reducing the Delegates ability to freely add to discussion.

During the District 7 meeting specifically, President Dan Shinnick of National Mutual Benefit issued the following statements to members on the call:

*“If you vote no on this merger, you are voting to destroy this company and it will be gone in 15 years. I am promising you that.”*

*“If you turn this merger down, there is no one else that’s going to want to merge with you.”*

*“If you chose to not (merge) because of giving up power, ten years from now, you certainly are young enough, you’ll get to see what you’re doing to your company. I am sorry, this is really important to understand that a no vote here is a vote for your company to go away in 15 years. Its...you know...80% likelihood.”*

*“Then you’ll be sitting, ten years from now, fifteen years from now, what did we do when we had a chance to save this company.”*

*“If you vote no, this will be the first mistake you make that will ruin your company.”*

These could easily be perceived as scare tactics, playing on our personal desire to continue our company. Being told directly that we will be responsible for the downfall of our company was completely out of line. This was unprofessional at best and seemed to be a last-ditch effort to coerce Delegates to vote for the merger. If this were heard by all Delegates, as in a Convention format, there would have likely been a much larger outcry against President Shinnick. Both President Van Dyke and President Shinnick cited Western Fraternal’s poor financial health as the reason of this need, and when documentation showing the poor financial health was requested, President Van Dyke agreed to get back to members requesting them. Members were either not contacted again, or sent unofficial figures that were typed on no official form of documentation, and as such carry no validity. In short, no objective evidence was given for financial hardship, and upon further investigation, it was understood that Western Fraternal Life was a solvent and financially sound company. In addition, prior to the announcement of merger, members of Western Fraternal Life had been told repetitively in oral and published annual reports that we were a very stable company financially for some time, with such information only to be changed once the topic of merger arose for discussion. This does not comply with the statements given by the two company Presidents.

Another unusual thing occurred during the District 7 Zoom meeting. One member/Delegate was asking our District 7 Director what due diligence the board had done before formally voting to proceed with the merger. Our District 7 Director deferred to Duane Jirik, Chairman of the

Board, who was participating in the zoom meeting. The member again asked Mr. Jirik the question. He asked for further explanation. The member asked if the Board had sought independent legal counsel and independent accounting advice to allow them to make an independent decision, or did they simply accept what Mr. Van Dyke presented and do no further inquiry. Mr. Jirik stated that the Board had just accepted what Mr. Van Dyke presented and had not done any further investigation or inquiry. The members of District 7 learned at that time that the Board of Directors knew nothing more than what Mr. Van Dyke, who has a possible conflict of interest in the entire matter, presented to them. This is doubly troubling given the reluctance that Mr. Van Dyke has shown whenever he has been asked for any financial reports, analysis, or essentially any objective data related to the merger. One last concern is that only the members of District 7 learned these vital facts of breach of the Board's fiduciary duty. No other districts were privy to the District 7 zoom call. Some calls were made available after the fact for other Districts listen to online, but not all of them. District 5 meeting was completed before the CDC Guidelines were released, and President Van Dyke stated he "forgot to hit the record button" on the District 6 (California, Idaho, Montana, North Dakota, Oregon, South Dakota, and Washington) meeting (the website says "technical difficulties", another potential misrepresentation of fault). Even as such, no synopsis of discussion was completed, and as meetings lasted up to four hours, very few members could likely meet the time constraints to listen to all recordings.

### **Various Other Propagandist Publications**

Multiple publications were made in order to persuade members to vote in favor of the proposed consolidation. At the close of the process, there was no evidence of any materials giving any reasons against this consolidation from the Western Fraternal Home Office, President Craig Van Dyke, President Dan Shinnick, or the WFL Board of Directors. In fact, multiple postal mail documents and e-mail documents were sent to voting members up until 4/24/2020, one day before voting opened. The April issue of *The Fraternal Herald* also featured a near 2,000-word list of testimonials from members from around the country advocating for this merger. This was around 2 ¼ two column pages in total of "endorsement statements", with only five of which

being non-District Directors who chose to do so on their own conviction. The District Directors were mandated to give statements of support on the issue. Two of these Director endorsements appeared neutral, while the remainder were very persuasive of a “yes” vote. No documents ever referenced the removal of the Convention as the Supreme Governing Body of the organization or referenced changes in the Articles of Incorporation or Bylaws. They included facts such as community service actions taken by National Mutual Benefit, comparison charts between the two companies, and infographics that revealed very little about the actual material vote taking place. In fact, half of the email reminders to participate in the vote included these previously referenced “endorsement statements” at the bottom of the screen. The visible statement attached to the bottom of the e-mails read:

*"Western Fraternal Life members have a great opportunity to help the company grow and strengthen its financial position and existence by accepting and supporting the consolidation agreement with National Mutual Benefit. We will be able to keep our Czech heritage and culture, our districts, Convention, lodges, fraternal benefits, and much more, along with our values and purpose established more than a century ago."*

*Don Krall, District 3 Director for Western Fraternal Life*

Within this statement, not only is there persuasive language to accept, but also potential falsehoods. The new Bylaws clearly state the Board of Directors reserve the right to consolidate any two lodges as they see appropriate. The exact statement reads:

*Proposed Bylaws, Article II, Paragraph H*

*"Whenever the Board deems it in the best interests of the Society or of Local Chapter members, it may merge or consolidate two or more Chapters."*

Therefore, keeping all lodges is a potential falsehood. In addition, the Convention referenced in the statement knowingly holds different meaning to the members of Western Fraternal Life than the “Convention” referenced in the Fraternal Transition Plan of the Agreement. The Convention with familiarity to members is listed in our current Bylaws, under Article VI. The “Convention” referenced here is:

*Fraternal Transition Plan Section 4.3*

*“The Consolidated Society will conduct a national convention (“Convention”) in 2022 in Cedar Rapids, Iowa to celebrate the 125 anniversary of the society.”*

Once again, this could be interpreted as a material misrepresentation, as the parties who organized these statements had full knowledge of the common meaning of Convention within the Western Fraternal Life membership. In fact, all statements of secured and unchanging traditions hold no validity and are of possible misrepresentation under the newly proposed documents, as the proposed Board of Directors has the power to make, alter, or repeal any measure at any time. Both the newly proposed Articles of Incorporation and Bylaws state:

*Proposed Articles of Incorporation, Article VII*

*“The Board of Directors shall adopt Bylaws and, by a majority vote of the full Board of Directors, shall have the power to make, alter, or repeal the same. Notice of changes to the Bylaws shall be given to the members in the manner prescribed in the Bylaws.”*

*Proposed Articles of Incorporation, Article IX*

*“These Articles of Incorporation may be amended in whole or in part by a majority vote of the full Board of Directors. Upon adoption such changes shall be filed with the Commissioner of Insurance of the State of Wisconsin and shall be published in the Society’s official publication in a manner prescribed in the Bylaws.”*

*Proposed Bylaws, Article XVI*

*“These Bylaws may be amended in whole or in part by a majority vote of the full Board of Directors. Upon adoption, such changes shall be filed with the Commissioner of Insurance of the State of Wisconsin and the changes shall be published in the Society’s official publication in the manner prescribed in these Bylaws.”*

These charged documents and statements seem to have intentionally avoided the issues within the vote that members took action against, and instead addressed only the factors at which most would agree with. They were also intentionally placed to be read directly before voting if performed online.

**General Factors of Consideration Avoided During the COVID-19 Pandemic**

The largest portion of this proposed consolidation has taken place within the COVID-19 Pandemic. Without even considering the general riskiness of a consolidation, or the compounding risk factors during a worldwide pandemic, there were many considerations not taken within this proposed consolidation. It is the opinion of many members that this matter should have been tabled until we were in a greater state of normalcy, in which business could have been conducted in the usual fashion. Many members perceive that the only reason this process has been pushed to the degree it has during this pandemic was to keep members from discussing the true nature of the decision. At a time in which many people are ill, dying, and families are mourning lost members, in addition to the economic hardships and job losses of members, no consideration to the strain of personal members of WFL was exhibited by the Board of Directors or President Van Dyke within merger dealings. Possibly more so within a group of companies that specialize in life insurance, there would usually be an added level of caution during a period such as this. However, at least in accordance with this merger, no such care or delay of action was taken at the discretion of the WFL Board of Directors or WFL President Craig Van Dyke. In an association governed by the members, there has been no opportunity for lodge meetings to discuss and debate this major change in our association and

allow the members to guide their Delegates as to how to vote. This goes against the clear intent of our founders that this is to be a representative form of government, as it has been with great success and stability for over 120 years.

### **Apprehension to Receive Contacts or Answer Questions**

After the proposed consolidation was announced, it was highly encouraged to contact the Western Fraternal Life Home Office directly if any questions were asked. Members requested that all questions were to be put online on the merger website for everyone to review. This was ruled as an impossibility by President Van Dyke, with no further explanation. There was also an apparent hesitation of President Van Dyke to answer questions asked directly to him. Attached are e-mail excerpts from a Delegate and President Van Dyke as examples.

Beginning Thursday, 4/23/2020 at 12:10 PM

***Delegate:***

*“I have a question about how members were contacted in this voting process. I know everyone should have received in the mail a packet containing documents and other promotional pamphlets, but I was under the impression that and e-mail was the only form of direct and unsolicited contact from the home office. Is this true? If I am correct, all other direct contact (phone call, e-mail, etc.) was only to answer questions previously asked by the contacted members?”*

***President Van Dyke:***

*“The Western Fraternal leadership, including the Executive officers and the Board of Directors, has gone to considerable lengths to provide information to delegates in a number of forums.”*

**Delegate:**

*“I apologize, but that didn't answer my first question, so I will clarify.*

- 1. I was under the impression mass e-mail was the only form of direct and unsolicited contact from the home office. Is this true? If I am correct, all other direct and unsolicited contact was solely based on answering questions posed by the members prior to any form (other than mass e-mail) of contact?*

*Also, what company recommended the online voting company so I can speak with them about the process, as they should know better than anyone else.”*

This question was never answered. The eventual response was made after the Delegate attempted a follow up Friday of the following week. It was eventually answered Monday of the next week.

Beginning Monday, 5/1/2020 at 11:40 AM

**Delegate:**

*“I am following up on some questions I asked this past week and am still looking for answers to.*

- 1. I was under the impression mass e-mail was the only form of direct and unsolicited contact from the home office. Is this true? If I am correct, all other direct and unsolicited contact was solely based on answering questions posed by the specific members inquiring prior to any other form (other than mass e-mail) of contact?*
- 2. What company recommended the online voting company so I can speak with them about the process, as they should know better than anyone else.*
- 3. You told me during our call that you would find out what you could about the third party independent legal and financial analysis of this proposed consolidation. Could you identify the parties involved in analysis and furnish the members with those reports as you had promised looking into?*

*I appreciate your cooperation in this process.”*

Friday, 5/4/2020 at 3:48 PM

***President Van Dyke:***

*“We have responded to your many questions about procedure and hope this has provided a beneficial learning opportunity for you. We would summarize by saying that WFL and its leadership have been very well advised about the process by our experienced advisors and in communication with the Iowa Insurance Division. We are grateful for the leadership of the Board and our executive team in evaluating current and future trends and setting a course to meet the many challenges facing WFL and all fraternalists and to find growth and success in the future. The Board and the executive team have worked very hard to communicate the need for and the benefits of the merger to delegates in many forums. An example is the extensive communications we have had with you. While we appreciate your offer to conduct diligence on the professional election organization, that work has already been completed and this provider was approved by the Board. We are very confident in their ability to count ballots and provide us results of the election.*

*If you have further questions, feel free to contact your director.”*

This e-mail excerpt is a single example of the correspondence that took place between President Van Dyke and an individual asking important questions about the merger, the procedure, etc. In the end, there was a denial of membership attempts to investigate companies handling the votes, and an embedded request to no longer contact President Van Dyke directly. This seemed a bit odd following the many requests President Van Dyke made for members to contact him directly. In light of the revelation by the Chairman of the Board during the District 7 Zoom meeting, the Board had failed to perform any independent investigation into the merger as aside from a potentially conflicted party, and as such, the statements of Mr. Van Dyke that “that work has already been completed” rings hollow. In general, multiple members cited increasing hostility when detailed questions were asked directly to President Van Dyke. In addition, Directors were mandated to fully support the Board Decision, and converse information of prior discussion within the Board was to be held in confidence. Members and delegates with questions could not

ask their own Director and expect to obtain full answers in this scenario. Such a restriction on the free flow of information raises many red flags in the minds of many members regarding such an important vote.

### **Voting Issues and Possible Disenfranchisement Amid the COVID-19 Pandemic**

Voting on the Agreement of Merger came to a close on May 26, 2020. As previously stated, voting took place either by mail ballot or online. An issue arose with the mail-in balloting due to the COVID-19 Pandemic. It was brought to the attention of a Board of Directors member that not all votes mailed to YesElections were received by the due date. These votes were mailed in a timely manner, two weeks or more before the closing date of the vote. Some of these votes were reportedly sent within the same week that the ballots were received by the Delegates, yet YesElections said they had not received them as of May 26, 2020. In other words, Delegates made good faith efforts to cast their votes for this Agreement of Merger, but due to external influences brought upon by the COVID-19 Pandemic, the votes were not received by the election company by the specified date. Clearly, there is a highly unusual and unforeseen issue with mail delivery that has had a detrimental effect upon this election during the time chosen to conduct the vote. Upon recognition of this, Delegates asked one Board of Directors member for accounts of votes received by YesElections. This turned into a difficult process, as this Director learned that President Van Dyke was the only person with permission to receive the results from YesElections at that time. President Van Dyke (against the Article X, Section 56 of the Bylaws which assigns this power to the Chairman of the Board) coordinated directly with YesElections and was the sole contact person for the voting service. It was also managed so that he would be the only individual receiving reports directly from the voting service. Upon diligent request of the Director, the Board of Directors were allowed direct access to the votes. Oddly, the most recent mail-in ballots counted by the company were on May 21, 2020 at 12:07 PM. This is five days before the deadline. This information is in direct conflict with one Delegate, who phoned YesElections the afternoon of May 26 to verify that their mail-in vote had been received. This Delegate was told that YesElections had collected that day's mail and entered the votes from that

day; this Delegate's vote had not yet been received, despite being mailed two weeks earlier. This Delegate was then able to cast their vote online.

The standing of the current ballots reported on May 27 was 110 yes to 49 no. It was reported that 69.1% of the votes were yes, or a 3.1% margin of victory. While this sounds definitive, missing votes could make a difference in the overall outcome of the election. If good faith effort was made, actions were taken appropriately, and votes were cast in a timely manner, there should be no reason why these votes would be invalidated by a strained postal system. This was made aware to President Van Dyke and the other seven members of the Board of Directors at their board meeting on May 27. The option was placed on the floor to extend the vote by seven days given the current circumstances, but was voted down by simple majority the Board of Directors. The cited reason was the qualifying number of ballots had been received, and as such there was no need to extend the vote as per the Bylaws. However, if the Bylaws were to be followed, Chairman of the Board Duane Jirik should have overseen the voting process in its entirety, but instead President Van Dyke was the sole contact person for YesElections. This is part of Article X, Section 56 of our current Bylaws. It is interesting that the Board of Directors, knowing an issue had occurred, understanding that it was an external factor outside of the consideration of a normal period, and that the vote could be impacted with a simple six vote differential, chose not to accept a mere seven-day extension period to receive all ballots mailed and ensure maximum participation. As knowledge of this issue was well known, documented, and relayed, the subsequent decision to repeal member votes due to external and uncontrollable influences could be seen as disenfranchisement. The Board of Directors had the opportunity to extend this vote and accept only mail that had been postmarked before the deadline, but instead chose to remove the voice of some Delegates. This cannot be acceptable.

## **Conclusion**

Given the multiple mishandlings and inappropriate action within the proposal, as well as many violations of our existing Bylaws, members of Western Fraternal Life strongly charge the Office of the Wisconsin Commissioner of Insurance and the Office of the Iowa Commissioner of

Insurance to look into the actions of Western Fraternal Life, including President Craig Van Dyke and the Western Fraternal Life Board of Directors, and National Mutual Benefit, including President Dan Shinnick. Tactics used by all parties could have been performed to persuade and manipulate the vote of the membership without any regard to ethical business conduct, let alone their charge as fraternalists with duty to their own members. It is requested that members of the identified parties called into question be sequestered and questioned, as they could hold greater information that would inform the two insurance divisions about the way in which matters were approached. This process has been very troublesome for many members, and many feel appropriate and ethical action has not been taken in this process.