

National Minister's Occasional Message

NEW THINGS FOR THE NEW YEAR 2014: TEMPORARY SUSPENSION OR PERMANENT DISMISSAL? "BEING THE MERCIFUL PRESENCE OF GOD"

Please forgive if the following article seems a bit complicated and legalistic, but it will focus on a call for mercy in this New Year if temporary or permanent punitive actions need to be taken against a sister or brother in the Order.

Three separate incidents have arisen in the recent and not so recent past where questions of temporary suspension from a local fraternity or permanent dismissal from our Order have arisen. Without revealing any names or many specifics, for obvious reasons, let me say that one incident came from a Regional Executive Council (REC) to the National Executive Council (NEC) to confirm a Decree of Dismissal. The second incident also came to the NEC from another REC concerning what to do with reported egregious behavior by an individual in a position of leadership. A third incident was reported to me by the Minister of a third REC about an appeal to that REC of a local fraternity's suspension of a individual because of reported disruptive behavior.

For Constitutional context, Article 56 of the General Constitutions Number 2 concerning temporary suspension reads:

- 1. 2. The repeated and prolonged default in the obligations of the life of the fraternity and other conduct in serious opposition to the Rule have to be**

discussed by the council in dialogue with the person at fault. Only in the case of obstinacy or relapse may the council decide, with a secret vote, to suspend someone. It communicates its decision in writing to the person concerned.

Article 58 Numbers 2 to 4 concerning a definitive Dismissal from the Order read:

- 1. In case of serious causes, provided that they are external, imputable, and juridically proven, the minister and the assistant of the local fraternity, with charity and prudence, discuss the matter with the brother or sister concerned and keep the council informed. The brother or sister is given time to reflect and to discern, eventually with the help of an external and competent expert. If the time set aside for reflection passes without any result, the council of the fraternity requests the council of the higher level to dismiss the brother or sister from the Order. The request must be accompanied by all the documentation relative to the case. The council of the higher level will issue the decree of dismissal after having collegially examined the request with the relative documentation and having verified observance of the directives of the Law and of the Constitutions.**
- 2. The brother or sister who publicly rejects the faith, or defects from ecclesiastical communion, or upon whom an excommunication is imposed or declared, by the fact itself ceases to be a member of the Order.**

This does not mean, however, that the council of the fraternity should not discuss the matter with the person concerned or offer fraternal help. The council of a higher level, upon request of the council of the local fraternity, collects the proofs and officially declares that the person has ceased to be a member of the Order.

- 3. The decree of dismissal or the declaration that the person has ceased to be a member of the Order, in order to become effective, must be confirmed by the national council to whom all the documentation will be sent.**

Please note that in both types of punitive action, the word "serious" is used and both require "dialogue with the person at fault." In 2014, if ever, the NEC does not wish to hear of suspensions and dismissals taken because of differences in political opinion, for example, or personality conflicts. Nor does the NEC wish to hear of local or regional ministers or even local or regional fraternity councils making unilateral decisions of suspension or dismissal without a documented effort to reach out to those who have been accused. Please read the General Constitutions and study and pray our Rule and the Gospels!

Concerning the first incident mentioned above, it was the feeling of the NEC that the documentation failed to meet the high standards for dismissal given in Article 58 Number 2. Again, without going into details, the key terms in that Article and Number are "external," "imputable" and

"juridically proven," which set a very high bar, a bar even higher than the mark set for temporary suspension, which is already high: "the repeated and prolonged default in the obligations of the life of the fraternity and other conduct in serious opposition to the Rule."

I will mention that Friar Lester Bach, OFM Cap, who was serving at the time as President-in-Turn of the Conference of National Spiritual Assistants, joined us in our original discussions. His excellent book *Called to Rebuild the Church: A Spiritual Commentary on the General Constitutions of the Secular Franciscan Order* discussed this same Article 58 in the previous General Constitutions with slightly different wording, but with the same high standard for a permanent decree of dismissal. He too felt that the documentation presented failed to meet the high standards of Article 58 Number 2.

In the second incident, the reported egregious behavior of the individual in a position of leadership was much worse, in my opinion, than the documented behavior of the individual in the first incident. Yet this situation needed neither documentation nor NEC approval because the REC decided to temporarily suspend the individual, with the individual's approval, for five years. Although a temporary suspension approved by an REC does not need NEC approval, unless there is an appeal, I, for one, did approve of a temporary (and somewhat) private action rather than a permanent and thus more public action for two reasons that I can also apply to all three incidents.

The first reason is somewhat analogous to why the Catholic Church generally does not excommunicate certain politicians, for example, for strongly held, public views that are clearly in disagreement with official Church teachings when the politicians themselves publicly call themselves Catholics. (Living near Washington, DC, I read in the papers and I have given Holy Communion to certain politicians who, without naming names, have caused me concern.

When I raised my concern to a higher-level Church official, he said that the Catholic Church generally hesitates to excommunicate officially, and he gave the following explanation that I offer to you. On the one hand, the Church wants to avoid drawing too much attention to an individual, who might want later, for whatever reason, to come back to the Church, but having been officially excommunicated will find that path difficult. On the other hand, certain people, if publicly excommunicated, might strive to make martyrs of themselves, and this publicity would not benefit the Church however much the people involved might merit excommunication.

The general point to be made, whether it is an official excommunication from the Church or a Degree of Dismissal from the Secular Franciscan Order, is that public, permanent decrees make future reconciliation much harder.

For us Secular Franciscan Servant Leaders, our overriding focus must always be the salvation of souls and the peace and vitality of the fraternity.

Generally, the less public and the less permanent a punitive action is, the better the eventual outcome may prove to be, trusting in the Holy Spirit and the subsequent good will of all parties involved. This is the first reason for taking a less permanent action, and it flows into the second reason.

The second reason is that if we err, as I so often do, we should strive to err on the side of mercy, perhaps most particularly in taking punitive actions. Friar Lester in his book above on this same Article 58 quotes St. Francis himself saying: "there should not be any brother (sister) in the world who has sinned, however much he may possibly have sinned, who, after he (she) has looked into your eyes, would go away without having received your mercy" (text p.13; cite from *Francis and Clare*, 75).

Since our current Holy Father Pope Francis has certainly made the theme of mercy so prominent in his words and actions, I feel we should try to follow the lead of our Founder St. Francis and our Pope Francis in trying to promote mercy at every instance. This is indeed our theme for 2014, generated and approved at our 2013 National Chapter: "Be the Merciful Presence of God."

For a final example, in the third and last incident that I mentioned in the beginning, an individual had been suspended from his or her local fraternity for reported disruptive behavior. The individual had appealed to the REC, and I saw email where the individual was greatly comforted by the explanation that although suspended, he or she had not been officially dismissed from the Order.

He or she was still a Secular Franciscan, but needed to address certain behaviors. It was a temporary situation, not permanent. Hope and a possible solution were still possible. This response seemed to me the most merciful.

Of course, each situation has its own unique set of individuals and events. I'm not trying to lay down any hard or fast rules or regulations. I'm only suggesting that for this New Year, when problem individuals and difficult situations arise, as they inevitably will, and punitive action is being considered, we bring those individuals and situations to prayer before the Lord. We take a step back for "charity and prudence" on all sides. We always work with our fraternity councils and never alone. We dialogue with all concerned; repeat, we dialogue with all concerned. We gather all the facts we can. We always keep an eye to mercy.

Peace and prayers for mercy in this New Year,

Tom