STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

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STATE OF NEW YORK
INDUSTRIAL BOARD OF APPEALS

In the Matter of the Application of:	
FATEH AHMED, DENTIST P.C.,	
	DOCKET NO. CI 07-017
For Approval of an Assumed Name Pursuant to Section 130 of the New York State General Business Law	RESOLUTION OF DECISION

By letter dated October 5, 2007, Fateh Ahmed, Dentist P.C., (Applicant) filed an application with the New York State Industrial Board of Appeals (the Board) for approval of a Certificate of Assumed Name to carry on, conduct, or transact business under the proposed assumed name of "Union Dental."

General Business Law (GBL) § 130 (2) (c) prohibits any corporation, limited partnership, or limited liability company from filing "a certificate for the use of any name or designation to carry on or conduct or transact business in [New York] which consists of or includes a word or words the use of which is prohibited or restricted by [among other laws, Business Corporation Law (BCL) § 301 (a) (6)], without having obtained any necessary consents or approvals which would permit the use of the word or words. . . ."

BCL § 301 (a) (6) provides that

> "the name of a domestic or foreign corporation: Shall not, unless approval of [the Board] is attached to the certificate of incorporation, or application for authority or amendment thereof, contain any of the following words or phrases, or abbreviation or derivative thereof: union, labor, council, industrial organization, in a context which indicates or implies that the domestic corporation is formed for

> the foreign corporation authorized as an organization of working men or women or wage earners or for the performance, rendition or sale of services as labor or management consultant, adviser or specialist, or as negotiator or arbitrator in labor-management disputes."

The Applicant is a corporation within the meaning of GBL § 130 (2) and therefore, pursuant to BCL § 301 (a) (6), must obtain the Board's approval to use "Union Dental" as an assumed name.

Labor Law § 104 governs the Board's review of corporate instruments that are submitted to it for approval in accordance with the requirements of other statutes, including BCL § 301 (a) (6). Section 104 states that the Board

> shall make such inquiry as it may deem advisable . . . to determine . . . whether the corporate name is in all respects consistent with its purposes and activities or tends to be misleading.

Pursuant to Labor Law § 104, we find that the use of the name "Union Dental" cannot be approved because in the context of the widespread existence of labor union sponsored medical benefit plans, the public may be misled to believe that "Union Dental" is such a plan (*see Matter of Tool Owners Union v Roberts,* 190 Misc 577 [Sup Ct New York County1947] [misleading and confusing name is one of the grounds upon which Board may deny approval of an application before it]). Accordingly, the Application for approval of the use of the assumed name "Union Dental" is denied.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Certificate of Assumed Name is disapproved; and

2. A certified copy of this Resolution be annexed thereto.

WITNESS, the signatures of the Members of the Industrial Board of Appeals and the Seal of the Industrial Board of Appeals of the State of New York, at New York, New York, on the 23rd day of January, 2008

Anne P. Stevason, Chairman

Mark S. Perla, Member

Gregory A. Monteleone, Member

Susan Sullivan-Bisceglia, Member

J. Christopher Meagher, Member

Dated and signed in the Office of the Industrial Board of Appeals, at New York, New York, on January 23, 2008.

Filed in the Office of the Industrial Board of Appeals, at Albany, New York, on January 28, 2008.

DAR