

STATE OF INDIANA

BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION

IN RE THE MATTER OF THE PERMIT OF: )  
J&J PROMOTIONAL GROUP LLC ) PERMIT NO. RR49-34837  
d/b/a FUZION ULTRA LOUNGE )  
9439 EAST WASHINGTON ST. )  
INDIANAPOLIS, IN 46229 )  
Permittee/Appellant. )

**PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW ON  
THE APPEAL FROM THE DENIAL OF RENEWAL OF A PERMIT.**

This matter came before Mark A. Jones, Commissioner and Hearing Judge of the Indiana Alcohol and Tobacco Commission (“IATC” or “Commission”), on the appeal by J&J Promotional Group LLC d/b/a Fuzion Ultra Lounge (“Permittee” or “J&J”) of the Indiana Alcohol and Tobacco Commission’s denial of the renewal of J&J’s permit number RR49-34837. As authorized by statutes and the rules and regulations of the IATC, notice was taken of the records of the IATC under both Permit Nos. RR49-34837 and RR49-40804.

**PROCEDURAL BACKGROUND**

On November 28, 2023, J&J filed an Application for Renewal of their beer, wine and liquor permit, Permit No. RR49-34837, which was due to expire on March 3, 2024. The renewal was assigned to the Marion County Local Board (“Local Board”) and set for hearing on January 2, 2024. Also on November 28, 2023, S&B Entertainment, LLC (“S&B”) filed an application for transfer of ownership of the permit from J&J, filed as Permit No. RR49-40804, along with two manager’s questionnaires for J&J’s premises. This application for transfer was also set for hearing before the Marion County Local Board on January 2, 2024.

On January 2, 2024, J&J failed to appear before the Local Board so J&J’s renewal

hearing was reset on February 5, 2024. S&B did appear on January 2<sup>nd</sup>, and the Local Board recommended approval of the transfer by a vote of 4-0. The Commission approved the transfer to S&B on January 17, 2024, but the permit remained pending because J&J's renewal had not yet been granted.

J&J appeared at the February 5<sup>th</sup> hearing but S&B was not present; given that the Local Board had questions about inconsistencies between testimony given by S&B at the January 2<sup>nd</sup> hearing and the actual operations of the business, the Local Board reset the hearing for March 4, 2024, for both J&J and S&B to be present. S&B was present on March 4<sup>th</sup>, but J&J was not. The Local Board then voted 2-1 to recommend denial of J&J's renewal application, and that recommendation was adopted by the Commission on March 19, 2024, by a vote of 4-0. J&J filed this appeal on or about April 12, 2024.

An appeal hearing was conducted on October 16, 2024, at which J&J was present by Larry Gene Jones, Permittee's controlling member, and by counsel Terrance Kinnard. The undersigned having heard the testimony at the hearing and having taken judicial notice of the records of IATC under both permit numbers hereby finds and orders as follows.

## **FINDINGS OF FACTS**

1. IATC issued a permit to J&J on January 30, 2019, as a result of a transfer application having been filed on September 27, 2018, on behalf of Larry G. Jones, Jr. ("Mr. Jones"), sole owner of Permittee. (ATC files)
2. The permit was last renewed on October 26, 2023, with an expiration date of July 21, 2024. (ATC files)
3. On November 28, 2023, J&J filed an Application for Renewal that indicated both that Mr. Jones was still the sole owner and that there was no contract for the sale of the business

or the permit. This Application for Renewal failed to answer the question: “Have there been any changes in the existing operation, floor plans, or seating accommodations since you last applied for or renewed this permit? (If yes, follow the instructions in Section 6.)” (ATC files)

4. On that same day, November 28, 2023, S&B Entertainment filed an Application for Transfer of Ownership from J&J to S&B under Permit #RR49-40804. That transfer application stated that Nachelle Moore and Shellie Branson were each fifty percent (50%) owners of the business, and the answer was “yes” to the question: “As owner, do you manage the premises?” (ATC files)

5. Also on November 28, 2023, S&B filed an Application for Alcoholic Beverage Permit Schedule – MQ (“Manager’s Questionnaire”), along with Nachelle Moore’s and Shellie Branson’s Manager’s Questionnaires, for J&J’s premises. (ATC files)

6. J&J’s renewal was assigned to the Marion County Local Board and set for hearing on January 2, 2024, as a hearing was necessary because a violation had occurred since the last renewal. That hearing was continued to February 5, 2024, because J&J failed to appear. (ATC files)

7. S&B’s application for transfer was also set for hearing before the Marion County Local Board on January 2, 2024; S&B appeared and Ms. Moore testified, in part, that she would be operating a brunch restaurant. The Local Board recommended approval of the transfer by a vote of 4-0. (“ATC files”)

8. The Commission approved the transfer to S&B on January 17, 2024, but the permit remained pending because J&J’s renewal had not yet been granted. (ATC files)

9. J&J appeared at the February 5th hearing but S&B was not present; given that the Local Board had questions about inconsistencies between testimony given by S&B at the

January 2nd hearing and the actual operations of the business, the Local Board reset the hearing for March 4, 2024, for both J&J and S&B to be present. (ATC files)

10. On February 8, 2023, during the pendency of the transfer, S&B was operating the premises and started operating as a late-night establishment. A permit visit conducted by the Indiana State Excise Police (“ISEP”) during this time resulted in the issuance of a notice of violation for lack of minimum food requirements (i.e. hot soup, coffee and milk), smoking, and public nuisance-marijuana. (ATC files, EX-24-000441<sup>1</sup>)

11. S&B was present on March 4th, but J&J was not. During the hearing, the Local Board scrutinized S&B’s honesty during the hearing on January 2, 2024, when the owners represented that this would be primarily a brunch place. (ATC files)

12. While being operated by S&B pursuant to their Managers’ Questionnaires, flyers were distributed promoting the business as having events for age twenty-five plus from 10 P.M. to 2 A.M. or 3 A.M., and the sales were approximately 30% food and 70% alcohol. (ATC files)

13. The Local Board denied the renewal of J&J’s Permit #49-34837 on March 4, 2024, by a vote of 2-1, on the basis of how the business was run by S&B, specifically citing 905 IAC 1-27-1 in finding the applicant lacked good moral character and good repute, permit premises had become a public nuisance, and criminal offense(s) had taken place on the premises. (ATC files)

14. The Local Board’s recommendation to deny J&J’s renewal was adopted by the Commission on March 19, 2024, by a vote of 4-0.

15. On March 24, 2024, ISEP and the Indianapolis Metropolitan Police Department

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<sup>1</sup> A settlement offer was sent by the IATC prosecutor to S&B on or about May 30, 2024, but the matter remains unresolved.

(“IMPD”) conducted an investigation of the premises because of “... a Mass Shooting occurring in the parking lot of the premise on Sunday, March 24, 2023, at approximately 1:30 A.M. The incident resulted from a fight that spilled out of the bar into the parking lot. Six (6) people were shot, which included an Indianapolis Metropolitan Police Department Officer and the shooter, who was declared deceased later at a local hospital....”. (ATC files, ISEP Incident Report EX-24-000967.

16. On March 26, 2024, the Commission reconsidered the extension that they had granted to J&J on March 1, 2024, revoked that extension and issued an immediate pick-up order for the permit and letter of extension.

17. The Commission subsequently reconsidered its approval of the transfer to S&B and denied the transfer by a vote of 4-0, primarily on the basis that there was no valid permit to transfer.

18. Mr. Jones, owner of J&J, was sworn at the *de novo* appeal hearing and testified.

19. Mr. Jones was confused during the renewal process with who was handling the renewal of his license and what he needed to do because the business handling the renewal and the corresponding individual responsible for the renewal transitioned due to a merger or buy-out, and the same group represented both J&J and S&B.

20. Mr. Jones missed a couple of the Local Board hearings but was present for the February 5<sup>th</sup> meeting. He was told at one point – not during that hearing - that he didn’t need to attend because the transfer had been approved and the renewal was successful. It is unclear who told him this, but his testimony was credible.

21. It was significantly after the fact that Mr. Jones learned that the renewal and transfer had been denied due to his failure to appear at the Local Board.

22. At the time of the hearing in this appeal, EX-24-000967, a notice of violation that had been issued to J&J, was still pending. Mr. Jones was confused as to who was responsible for resolving that violation given that it happened under S&B's management.

23. Mr. Jones settled EX-24-000967 on April 3, 2025, by payment of a civil penalty of \$1,000.00 and an agreement to both not reopen and to seek a transfer of the permit to an independent third party at a new location.

24. If any findings of facts herein are more appropriately considered conclusions of law, they should be so considered.

## **CONCLUSIONS OF LAW**

1. If any conclusions of law herein are more appropriately considered findings of fact, they should be so considered.

2. The IATC has jurisdiction over this matter pursuant to Ind. Code §7.1-1-2-2 and §7.1-2-3-9.

3. The Application for Renewal was properly submitted pursuant to and substantially in compliance with I.C. §7.1-3-1-4.

4. The Commission is authorized to act and the proceedings in these matters were properly conducted pursuant to I.C. §7.1-3-19-1, *et seq.*

5. These findings and conclusions are based exclusively upon the substantial and reliable evidence in the record of proceedings and on matters officially noticed in the proceedings. 905 IAC 1-37-11(e)(2); I.C. §4-21.5-3-27(d).

6. "Transfers will not be granted where the permittee is or has been cited for hearing for violation of the law, rules or regulations, until the citation is finally disposed of by the Commission." 905 IAC 1-17-4(b).

7. "A permittee under order of suspension or revocation will not be allowed to transfer the permit except by special order of the Commission." 905 IAC 1-17-4(c).

8. The Commission may, at its discretion, remand an application to a local board for further investigation. 905 IAC 1-36-2.5

9. Given the policy that local boards will not hear an application for renewal as long as a violation is pending, the resolution of the violation that was pending at the time of the hearing in this matter permits the local board to accept remand and rehear the renewal.

10. The Local Board denied the renewal on the basis of how the business was run by S&B, specifically citing 905 IAC 1-27-1 in finding the applicant lacked good moral character and good repute, permit premises had become a public nuisance, and criminal offense(s) had taken place on the premises.

11. Remand to the local board for reconsideration of a renewal of the permit is appropriate with the local board only considering J&J Promotional Group LLC, its agreement to NOT reopen, and its further agreement to seek transfer to an independent third party at a new location.

12. If renewal and transfer of the permit to another owner is subsequently sought, the local board could then review any proposed transferee from all perspectives, including whether the applicant lacked good moral character and good repute, and whether the applicant had previously been denied a permit.

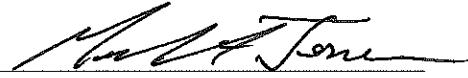
13. Permittee will have 15 days after service of this Proposed Findings Of Facts And Conclusions Of Law On The Appeal From The Denial Of Renewal Of A Permit ("Proposed Findings") to file a response to this Proposed Order with the IATC. After that time has run, these Proposed Findings and any response from Permittee will be scheduled for a final hearing before

the Commission, notice of which hearing shall be provided to Permittee.

14. If the Proposed Findings are adopted by the Commission, Indiana Code 7.1-3-23-9 provides that Permittee may seek judicial review of this action by following I.C. 4-21.5-5, except that the action for judicial review shall be filed in the circuit or superior court having jurisdiction in the County in which the licensed premises are located.

**IT IS HEREBY RECOMMENDED** to the full Commission of the Alcohol and Tobacco Commission that Permit No. RR49-34837 be REMANDED to the Marion County Local Alcoholic Beverage Board for reconsideration of J&J Promotional Group LLC's request for renewal as outlined above.

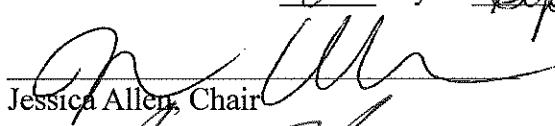
SO ORDERED THIS 7<sup>th</sup> DAY OF August 2025:

  
Mark A. Jones  
Hearing Judge, IATC

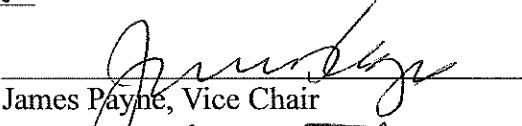
**ADOPTION OF THE PROPOSED FINDINGS AND CONCLUSIONS**

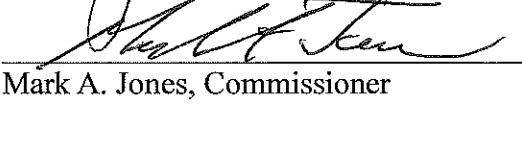
The Alcohol and Tobacco Commission hereby adopts the above Proposed Findings of Fact and Conclusions of Law on Appeal of Denial of Renewal: J&J Promotions LLC, and this matter is **REMANDED to the Marion County Alcoholic Beverage Board** for reconsideration of J&J Promotional Group LLC's request for renewal as outlined above.

SO ORDERED this 3<sup>rd</sup> day of September 2025.

  
Jessica Allen, Chair

  
Marjorie Maginn, Commissioner

  
James Payne, Vice Chair

  
Mark A. Jones, Commissioner

cc: Terrance Kinnard, 320 N. Meridian St., Ste 1006, Indianapolis, IN 46204, via USPS Certified Mail, return receipt requested  
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