

GARY LEWIS,

Complainant,

V.

**BT AND DAVE, LLC
AGENT: THEODORE SUESS
d/b/a SPEAKEASY ULTRA
LOUNGE
425 W. COLLEGE AVE.
APPLETON, WI 54911.**

Respondent.

**COMPLAINT SEEKING REVOCATION OF ALCOHOL LICENSES OF BT AND
DAVE, LLC**

Complainant seeks that the Safety and Licensing Committee of the Common Council of the City of Appleton meet as soon as practicable and as allowed by law, at which time the Complainant, Appleton Police Department Captain Gary Lewis, a resident of the City of Appleton, will ask the Committee to find this complaint to be true and recommend to the common Council that it REVOKE the alcohol beverage licenses of BT and Dave, LLC.

BT and Dave, LLC has registered agent of Theodore Suess and was issued Class "B" (beer) and "Class B" (liquor) licenses of the premises located at 425 W. College Avenue, Appleton, Wisconsin 54911, known as Speakeasy Ultra Lounge.

This complaint by Gary Lewis is being made based upon information and belief regarding the incident described herein:

On March 3, 2023, Appleton Police Department Officer Kyle Jakobsen reports that he was on patrol in the area of N. Division Street and W. College Avenue during the overnight hours. At approximately 1:05 AM, his attention was drawn to a possible disturbance near the Speakeasy Ultra

Lounge, located at 425 W. College Avenue. There appeared to be a physical altercation occurring on the sidewalk amongst several adult individuals.

As officers approached, the involved parties began dispersing in both directions on the sidewalk and also into Speakeasy. They made contact with Dontonio Wells and Steven Wells. Dontonio identified himself as the manager of the bar, and Steven identified himself as the bouncer. Dontonio indicated that a fight had occurred in the bar and Steven attempted to escort a patron out of the bar.

Steven showed officers a recent abrasion to his right brow. Steven indicated he had been hit in the face while escorting a patron out of the bar. He indicated he did not want charges to be filed and that he would handle the situation on his own. He did not want to provide a statement and he left the scene while appearing to remain angry and volatile.

Officers were subsequently able to make contact with the patron that was kicked out of Speakeasy when, a short time later, officers heard Steven Wells yelling loudly from near a different nearby bar that officers had ten seconds to respond, or he (Steven) was going to "kill him." Officers and Dontonio were able to remove Steven from the area and make contact with the subject identified in the subsequent criminal complaint as TRPK. TRPK had a large abrasion and significant swelling on his left eye socket and brow.

Once calmed down and removed a safe distance from the scene, TRPK indicated that he had been at Speakeasy when a fight erupted behind him. He tried to break up the fight when he was wrapped up in someone's arms from behind and dragged towards the door of the bar. He tried to resist and swung his elbows toward the back of his head at the person who had him wrapped up from behind.

Once outside, he indicated he was attacked by several people which led to him being face down on the sidewalk. While face down on the sidewalk, he was kicked in the face. Shortly thereafter, the police arrived and he went into a nearby bar to seek medical attention.

Officer Jakobsen was able to obtain exterior traffic camera video of the area where the confrontation occurred. He observed several adult male subjects dragging TRPK out of Speakeasy. One of the males dragging TRPK was identified as Steven Wells by his distinctive clothing. TRPK ended up on face down on the sidewalk. Officer Jakobsen observed that TRPK was clearly not posing any threat and was not fighting. With TRPK in that position, he observed Steven Wells kick TRPK in the side of the face. TRPK's head jolted to the right. Seconds later, the video showed police lights, and all the involved individuals other than TRPK fled moments prior to officers' arrival.

On March 10, 2023, Off. Jakobsen attempted to contact Dontonio Wells via telephone and voicemail without success. He then attempted to make contact with him in person at Speakeasy later that evening. After making contact with employees at the bar, he asked to speak with Dontonio. An employee walked to the rear of the bar, returning several minutes later. The employee relayed that Dontonio was using the restroom but would be out shortly. Off. Jakobsen asked the employee to have him come outside so they could speak by the front entrance of the establishment. After waiting outside for an extended period of time, Off. Jakobsen came to understand that Dontonio was declining to speak with him.

As a result of the above, Steven Wells was charged with Battery, contrary to §940.19(1) of the Wisconsin Statutes, in Outagamie County case 23CM942. On May 20, 2024, Steven Wells entered a "No Contest" plea and was found guilty of the offense of Battery by Judge Mark McGinnis.

According to §9-54 of the Municipal Code of the City of Appleton, the above-described events constitute a violation of Wisconsin Statutes and City of Appleton Ordinances classified as "Other acts – failure to maintain order / disorderly conduct, noise complaints, etc." There exists a substantial relationship between the violations and the licensed activity. Such violations are to be assessed 45 demerit points against retail alcohol licenses.

Additionally, because the violation resulted in bodily harm to an individual and / or created a substantial risk of death or bodily harm, the above is considered a "severe offense." Therefore 100 additional demerit points are to be assessed.

Pursuant to Chapter 125 of the Wisconsin Statutes and the courts' interpretations thereof, the licensee BT and Dave, LLC, is answerable for the above describe acts. Therefore 145 demerit points should be attributed to its license as a result of the conviction arising from the events described above.

Having previously been assessed 150 demerit points on or about August 16, 2023 (Action Item 23-0982), the licensee has accumulated no fewer than 295 demerit points during the past 36 months.

Recommendation and Conclusion

The above information indicates that state and / or local laws were violated by the licensee, or by its agents or employees working at the licensed premises. Complainant requests that the Safety and Licensing Committee impose 145 demerit points for the above violation. Based upon this accumulation of demerit points and based upon the Municipal Code of the City of Appleton Sec. 9-54(d)(3), that the retail alcohol beverage licenses be revoked, as a result of the accumulation of 200 or more demerit points within a 36-month period. Upon an assessment of the demerit points, and in light of the substantial relationship between the violations and the licensed activity, this complaint is requesting that the Safety and Licensing Committee recommend to the Common Council that it REVOKE the licenses issued to BT and Dave, LLC, (agent: Theodore Suess) for the licensed premises known as Speakeasy Ultra Lounge, located at 425 W. Wisconsin Avenue, Appleton, Wisconsin.

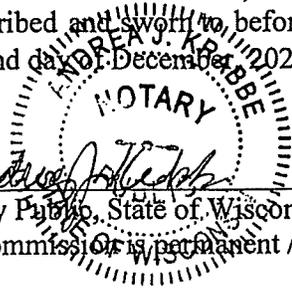
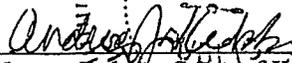
Dated this 2nd day of December 2024



Gary Lewis
Resident of the City of Appleton
Captain, Appleton Police Department

OUTAGAMIE COUNTY, WISCONSIN

Subscribed and sworn to before me
this 2nd day of December 2024.

Notary Public, State of Wisconsin
My commission is permanent / expires 2/9/25

**CITY OF APPLETON
COMMON COUNCIL
SAFETY AND LICENSING COMMITTEE**

IN RE THE ALCOHOL LICENSES OF DB AND DAVE, LLC

AGENT: THEODORE SUESS
d/b/a SPEAKEASY ULTRA LOUNGE
425 W. COLLEGE AVE.
APPLETON, WI 54911

SUMMONS

TO: Any City of Appleton Police Department Officer

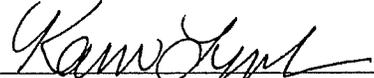
PLEASE TAKE NOTICE THAT,

**THEODORE SUESS
AGENT FOR BT AND DAVE, LLC
425 W. COLLEGE AVENUE
APPLETON, WI 54911**

is commanded to appear at the Safety and Licensing Committee Meeting on Wednesday, December 11, 2024, at 5:30 p.m. in the Council Chambers, 100 North Appleton Street in the city of Appleton, Wisconsin and show cause why the "Class B" and/or Class "B" Alcohol Beverage Licenses issued to BT and Dave, LLC should not be revoked in accordance with Wis. Stat. §125.12.

Dated in Appleton, Wisconsin this 2nd day of December 2024.

CITY OF APPLETON



Kami Lynch, City Clerk