

**WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS**

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**In the Matter of the  
Complaint Against**

**SUMMONS**

**Uncle Festers LLC  
d/b/a Uncle Fester's  
Ashley Kapalczynski, licensing agent.**

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STATE OF WISCONSIN        )  
  ) ss.  
COUNTY OF MILWAUKEE    )

**THE WEST ALLIS COMMON COUNCIL TO Uncle Festers LLC by licensing agent  
Ashley Kapalczynski:**

You are hereby notified that a sworn complaint, a copy of which is attached, has been duly made and filed, requesting a hearing on suspension or revocation of the 2020-2021 Combination Class B intoxicating liquor and fermented malt beverage license, under license number 20-2251, for the premises located at 5732 W. Mitchell Street in the City of West Allis, State of Wisconsin, for the license period running July 1, 2020, and expiring on June 30, 2021, pursuant to the provisions of Wis. Stat. § 125.12 and West Allis Code § 9.02(20) for violations found in the complaint including Wis. Stat. §§ 125.04(5)(b) & (c), 125.12(2)(ag)1 & 2, 125.32(2), 125.68(2), 941.137(2), 946.41, addition to West Allis Municipal Code §§ 9.02(20)a.iii, & 9.02(20)a.vi., 9.02(20)a.ix, and 9.02(20)a.x.

**NOW THEREFORE**, you, Uncle Festers LLC by licensing agent Ashley Kapalczynski, are hereby summoned to appear before the License and Health Committee of the West Allis Common Council on January 26, 2021 at 6:00 p.m., or as soon thereafter as this matter can be

heard, to admit or deny the allegations in the complaint. You may be represented by counsel on this date.

Please note, this meeting and appearance will be held via ZOOM and will be a remote or virtual appearance only. You should access this ZOOM Meeting via the following information:

Website Access: <https://zoom.us/j/91063250839>

Meeting ID: 910 6325 0839

- Please note if you may contact the West Allis City Clerk's Office at 414 302 8220 or the West Allis City Attorney's Office at 414 302 8450 for assistance.

In the case of your failure to appear as required by this summons, the allegations in the complaint against you shall be taken as true and, if the License and Health Committee of the West Allis Common Council finds the allegations sufficient, a recommendation that your license(s) be suspended or revoked will be made to the full Common Council. The Common Council may then vote to suspend or revoke your license(s).

You are further notified that if you appear as required by this summons and contest the allegations in the complaint, a hearing will be scheduled at a later date before the License and Health Committee, at which time you may be represented by counsel, cross examine the witnesses who testify adversely against you, and present witnesses in your own behalf. A written transcript of said hearing shall be made and you may obtain a copy of the transcript of this proceeding at your expense.

Dated at West Allis, Wisconsin, this 21 day of January, 2021.

WEST ALLIS COMMON COUNCIL

By: Ann Marie Neff  
Ann Marie Neff  
Deputy City Clerk

**WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS**

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**In the Matter of the  
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**COMPLAINT**

**Uncle Festers LLC  
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**STATE OF WISCONSIN        )  
  ) ss.  
COUNTY OF MILWAUKEE    )**

Vince Vitale, Alderperson for the First District of West Allis and Chair of the West Allis License and Health Committee, being duly sworn, on oath deposes and states as a complaint against Uncle Festers LLC, as follows:

1. That the complainant is a resident of the City of West Allis.
2. That this complaint is based upon information contained within official records maintained by the City of West Allis and the City of West Allis Police Department, (hereafter "WAPD").
3. That Uncle Festers LLC is the current holder of a 2020-2021 Combination Class B intoxicating liquor and fermented malt beverage license, under license number 20-2251, for the premises located at 5732 W. Mitchell Street in the City of West Allis, State of Wisconsin, for the license period running July 1, 2020, and expiring on June 30, 2021.
4. That Ashley Kapalczynski is identified as the agent for the liquor license 20-2251.

5. That Timothy Wergin is identified as the President/Member of Uncle Festers LLC for the license 20-2251.
6. That on October 3, Officer Vanden Boogard reported that the West Allis Police Department received a noise complaint regarding Uncle Fester's. Officer Vanden Boogard called the bar and stated that the music was extremely loud in the background. He was able to communicate with the bartender to turn the music down. The bartender agreed to turn the music down and stated that there was a DJ working that evening.
7. That on October 10, 2020, just before midnight, officers were dispatched to a shots-fired complaint originating near the 1700 block of S. 57<sup>th</sup> Street. Officers attempted to locate evidence and surveillance video of the shooting from surrounding businesses. One of the locations officers went to was Uncle Fester's. The staff at the bar originally claimed to not know anything about a firearm or shooting. The bartenders at Uncle Fester's were Julio Crespo and Judith Tobar. Ashley Kapalczynski was also at the bar as the bar manager, however told officers that she was not at the bar earlier in the night and was just called into the bar very recently by a bartender and after hearing about the shooting incident on a police scanner.
8. While officers were obtaining evidence, Officer Sayeg had made contact with two persons in the area. Officers obtained identification information from the subjects and released them from the scene. It was later determined that the two subjects, a male and a female, were involved in the shooting. Approximately two hours after the shooting, the female subject was seen at Uncle Fester's by West Allis Police. Officers entered Uncle Fester's, searched the bar for the other individual, and eventually found him hiding in an upper unit attached to the bar, also owned by Timothy Wergin.

9. Officer Jacobsen spoke with Julio Crespo, one of the bartenders working that evening. Crespo stated he works at the bar and is dating Judith Tobar and helps when she is bartending. Crespo stated that he recognized the male shooting subject but did not know him well. Crespo originally stated that the male subject did not mention having a firearm and did not see him in possession of a firearm. Crespo initially stated that he did not know how the male shooting subject got upstairs.
10. Officer Vanden Boogard and Officer Jacobsen reviewed the interior surveillance camera footage from Uncle Fester's and saw that at approximately 7:10 p.m., the male and female shooting subjects entered Uncle Fester's and greeted Crespo. The subjects were served drinks by Crespo. The two subjects appeared to be at the bar for several more hours and just before midnight on October 10th, the male became angry and broke a pool stick over his knee. The male subject walked up to Crespo to recover some of his items that he had brought into the bar. Crespo can be seen handing the male a green bag and an item wrapped in a towel or rag. Officer Vanden Boogard reported that the male shooting subject removed the item from the towel and threw the towel onto the bar. Tobar then picked up the towel from the bar and appeared to be watching the interactions of Crespo and the male. Officer Jacobsen reported that the male shooting subject can be seen on video inserting a firearm magazine into a black and silver firearm on the bar surveillance video. Officer Jacobsen reported that the firearm appeared to be in plain view in front of Crespo, Tobar, the female shooting subject, and a separate unknown male patron. The male shooting subject then places the firearm onto the right side of his person. Officers report that the video depicts the male shooting

subject stumbling around the bar before almost falling over a chair, shaking hands with Crespo, high fiving Tobar, and then leaving with the female subject.

11. Officers determined that moments after the two shooting subjects leave Uncle Fester's the male party uses the firearm to shoot several round into the air.
12. Officer Jacobsen confronted Crespo about the surveillance video that largely discredits the version of events he had given. Crespo admitted to lying originally and stated the male was a regular in the bar. Crespo stated that when the male got to the bar, he handed Crespo a small object wrapped in a towel which Crespo immediately believe to be a firearm. Crespo placed the firearm in a drawer behind the counter. When the male subject was leaving, Crespo handed the gun back to the male and the male left the bar. Approximately two hours later, the two subjects called the bar phone and said they were coming back but were too drunk and needed a ride back. Crespo went to pick them up and brought them back to the bar. Crespo further stated that he helped the male leave out of the back of the bar but denied having him go to the upper unit.
13. Officer Jacobsen further spoke with Timothy Wergin over the phone. Wergin is the owner of the bar and stated that he was not home because he is an over-the-road trucker. He did state that he allows people like Tobar, Crespo, and the bar manager Ashley Kapalczynski to use his apartment above the bar when they need it. Wergin stated that the male shooting subject did not have his consent to be in his upper unit. A consent search was conducted of the upper apartment and nothing of evidentiary value was found at the bar location.
14. That on January 1, 2021, at approximately 4:30 a.m., the West Allis Police Department was dispatched to Uncle Fester's located at 5732 W. Mitchell Street for a noise

disturbance. Officer Brett Vanden Boogard reported that there were approximately 10-15 individuals exiting the bar with an additional 5-10 people within the bar.

15. Officer Vanden Boogard first made contact with bartender Judith Tobar. Tobar reported that she did not have a bartender's license and only helps out when the bar needs help.
16. Officer Vanden Boogard made contact with bartender Julio Crespo who stated he was one of the individuals yelling within the bar to get patrons to leave. Based on previous contacts with Crespo, officers were aware that he did not have a valid bartender's license. Officer Vanden Boogard stated that he watched surveillance video and observed Mr. Crespo serving alcohol and cleaning the bar top.
17. Officer Vanden Boogard reported that since there were no licensed bartenders working at the licensed establishment, the location was shut down for the evening and citations were issued to parties, including Timothy Wergin.
18. That based on the incidents detailed above, on at least three occasions Uncle Festers LLC, by agent Ashley Kapalczynski, has violated Wis. Stat. § 125.12(2)(ag)2 and West Allis Code § 9.02(20)a.vi. for keeping a premises that is disorderly, riotous, indecent, or improper and that is operated in a manner which constitutes a public or private nuisance.
19. Further, on at least one occasion Uncle Festers LLC, by agent Ashley Kapalczynski assisted an individual in violating Wis. Stat. § 941.237(2) for allowing an individual to intentionally go armed with a handgun while on a licensed premises.
20. Further, that on at least one occasion Uncle Festers LLC, by agent Ashley Kapalczynski, violated Wis. Stat. § 125.07(2)(a)2 and West Allis Code § 9.02(20)(a)iii

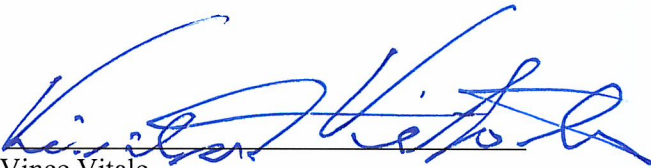
for selling or procuring alcoholic beverages to intoxicated persons and serving individuals to the point of intoxication.

21. Further, that on at least one occasion, employees of Uncle Festers LLC, by agent Ashley Kapalczynski, violated Wis. Stat. § 946.41 by knowingly obstructing an officer while such officer was doing an act in an official capacity and with lawful authority.
22. Further, on at least two occasions, Uncle Festers LLC by agent Ashley Kapalczynski has violated Wis. Stat. §§ 125.32(2), 125.68(2), 125.12(2)(ag)1 and West Allis Code § 9.02(20)(a)ix for operating the licensed establishment without a licensed operator or authorized individual under state law who is responsible for the acts of all persons serving alcoholic beverages.
23. Further, the establishment has violated Wis. Stat. § 125.04(5)(b) and (c) and West Allis Code § 9.02(20)(a)x. because Uncle Festers LLC, by agent Ashley Kapalczynski, has operated as a habitual law offender for at least three violations of disorderly, riotous, indecent or improper conduct at the premises, allowing the establishment to operate on at least two occasions without a licensed operator, has served patrons who were intoxicated, has employed individuals who obstructed police investigations, and has employed individuals who have allowed a firearm on a licensed premises.
24. That the preceding violations are grounds for revocation or suspension of the Combination Class B intoxicating liquor and fermented malt beverage license that has been issued to Uncle Festers LLC, by agent Ashley Kapalczynski, for 2020-2021 Combination Class B intoxicating liquor and fermented malt beverage license, under license number 20-2251, for the premises located at 5732 W. Mitchell Street in the City of West Allis.

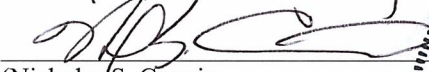


**WHEREFORE**, Alderperson Vince Vitale requests Uncle Fester's LLC, by licensing agent Ashley Kapalczynski be summoned to appear before the License and Health Committee of the West Allis Common Council to answer this complaint and, if the material allegations of the complaint are denied, that a hearing be held to determine whether the license issued to Uncle Fester's LLC should be revoked or suspended.

Dated this 21 day of July, 2021.

By:   
Vince Vitale  
Alderperson for the First District  
License and Health Committee Chair  
City of West Allis

Subscribed and sworn to before me  
this 21 day of January, 2021.



(Nicholas S. Cerwin  
Notary Public, State of Wisconsin  
My Commission expires: Permanent)

