

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 24, 2022

Lyle W. Cayce
Clerk

No. 21-50322

IN THE MATTER OF GABRIEL INVESTMENT GROUP,
INCORPORATED *and* GABRIEL GP, INCORPORATED.

Debtors,

GABRIEL INVESTMENT GROUP, INCORPORATED,

Appellant,

versus

TEXAS ALCOHOLIC BEVERAGE COMMISSION,

Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:20-CV-1244

Before KING, COSTA, and WILLETT, *Circuit Judges*.

DON R. WILLETT, *Circuit Judge*:

This Texas liquor law dispute poses a two-part question over the scope of an exemption from a general prohibition on public corporations owning package-store permits: Does Texas Alcoholic Beverage Code Section 22.16(f) “continue[] to exempt a public corporation if that corporation sells some or all its shares to a non-exempt corporation, and, if so, whether the

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exempt corporation can acquire additional package store permits”¹ We certified to the Supreme Court of Texas,² which swiftly and unanimously answered both parts “yes.”³

That resolves this appeal.

Accordingly, we REVERSE the district court judgment and REMAND for proceedings consistent with this opinion.

¹ *Gabriel Inv. Grp., Inc. v. Tex. Alcoholic Beverage Comm’n*, No. 22-0062, 2022 WL 2183290, at *1 (Tex. June 17, 2022).

² *In re Gabriel Inv. Grp., Inc.*, 24 F.4th 503 (5th Cir. 2022).

³ 2022 WL 2183290, at *1. The Court noted, though, that its answer came with some caveats. Its “analysis assum[ed] GIG will remain the same, distinct public corporation that qualified for the exemption in 1995” after it emerges from bankruptcy. *See id.* at *17 n.9. It “[did] not comment on any other scenario or on other potential changes to GIG that could interfere with its ongoing legal authority to hold package store permits.” *Id.* (citation omitted).