

Disbarred Coral Gables Attorney's Testimony Gets Former Client Acquitted Midtrial

Celia Ampel, Daily Business Review

Attorneys for a Miami developer won a rare directed verdict in a criminal fraud case by showing the defendant relied on bad legal advice.

An Orlando federal judge granted a Rule 29 acquittal after the government rested its case, finding prosecutors failed to prove developer Rebecca Gheiler acted in bad faith when she offered condominium buyers incentives not disclosed in closing documents. The practice allegedly cost mortgage lenders more than \$8.25 million.

Hundreds of emails between Gheiler and former Coral Gables attorney Angel Garcia-Oliver — who [pleaded guilty](#) for his role in the alleged scheme — showed she relied on his assurances that everything was legal, U.S. District Judge Paul Byron ruled.

Gheiler faced up to 30 years in prison if convicted, [according to the U.S. Attorney's Office](#) in Orlando. Everyone else charged in the scheme pleaded guilty, but Gheiler headed to trial with a defense prepared by the Miami firm Markus/Moss. The firm's roster of past clients includes NBA star Dwight Howard, professional baseball players Yasiel Puig and Manny Ramirez, and director Billy Corben.

Although they have won many jury verdicts and pretrial dismissals, the Sept. 7 decision was the only Rule 29 acquittal Gheiler's attorneys, David O. Markus and Margot Moss, have won in their decades of experience. The drama of the moment was heightened by the approach of Hurricane Irma, Markus said.

"The storm was barreling down," he said. "Everybody's concerned. It was Thursday after lunch. Everybody was from Miami: the client, the lawyers, the witnesses. People were flooding into the [Orlando] hotel we were staying in, making reservations. ... We drove south on the turnpike at like, 100 mph as it was a parking lot going north, so it was just a crazy moment."

The trial had plenty of dramatic moments of its own. The defense team set out to prove Garcia-Oliver was lying when he testified he was acting as Gheiler's closing agent, not her lawyer. But they also held one card close to the chest, telling the jury during opening statements there would be a surprise coming about Garcia-Oliver's character.

Markus said he discovered Garcia-Oliver, who was [disbarred in 2014](#) and faces sentencing Oct. 2, hid assets from the government after he pleaded guilty to conspiracy to commit bank and wire fraud. When defendants enter guilty pleas, they must also give a full financial accounting of their assets so they can pay restitution.

"Shortly before he pled guilty, he quitclaimed his \$1.8 million Coral Gables home to his wife and he didn't tell the government about that and didn't disclose it in his financial affidavit," Markus said. "We exposed that in the trial."

Garcia-Oliver's attorneys are Jane Moscovitz of Moscovitz & Moscovitz in Coral Gables and David M. Edelstein P.A. in Miami. Edelstein congratulated Markus and Moss for their "excellent lawyering" and maintained that Garcia-Oliver testified truthfully.



After the acquittal, prosecutors Christopher Poor and Vincent Chiu even offered to let their adversaries stay with them during the hurricane, Moss said.

"These prosecutors were true gentlemen and disclosed everything along the way and were very upfront with us, so it ended up being a very pleasant experience," Moss said.