



## Miami-Dade County

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# Appeals court throws out Miami Beach ‘bar-girl’ convictions

- A federal appeals panel found trial judge failed to make a key jury instruction
- Bars hired women to lure men and run up huge tabs
- Fraud convictions overturned against two operators of clubs in South Beach



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By Jay Weaver

The beguiling “bar girls” lured a TV weatherman and other easy marks into private nightclubs on Miami Beach, where they ran up hundreds of thousands of dollars in bills on their credit cards for fancy bottles of Dom Perignon and Russian vodka.

The girls, recruited from Eastern Europe by the club owners, testified they picked up the patrons in luxury hotels like the Delano and plied them with overpriced drinks at the seven South Beach venues. The girls said they got the out-of-town visitors so drunk that the men complained they couldn’t even remember signing their credit card slips.

But in a stunning ruling issued Monday, a federal appeals court panel found that the fraud convictions of two club operators should be thrown out because the presiding judge made a fatal

mistake in his jury instructions at their 2012 trial. The panel's ruling hinged on a legal interpretation of whether the victims were deceived or defrauded.

The panel, based in Atlanta, ruled that U.S. District Judge Robert Scola should have granted the defense request for the following jury instruction: the jurors "must acquit if they found that the defendants had tricked the victims into entering a transaction but nevertheless gave [them] exactly what they asked for and charged them exactly what they agreed to pay."

The ruling by the 11th Circuit Court of Appeals panel was striking, mainly because the Miami federal trial lasted nearly three months and 14 of the 18 defendants pleaded guilty before or during the proceeding. The panel's ruling — which was peppered with colorful references to Moses, Star Trek, the movie "Casablanca," Kentucky whiskey, Oliver Wendell Holmes and Sherlock Holmes — did not affect those who cut plea deals, including the ringleader.

Miami attorney Howard Srebnick, who led the appeals efforts, said the panel's decision sent a clear message.

"The court's decision today should come as a relief to nightclub owners by reassuring them that it is not a crime to pay alluring female promoters to entice men to spend lavishly on champagne — and a disappointment to any male patron who thought that for the price of a bottle of bubbly he was entitled to something more," Srebnick said.

The U.S. Attorney's Office declined to comment on the three-judge panel's unanimous ruling that Scola "abused [his] discretion by refusing to give that instruction." But it is likely federal prosecutors will ask the entire appeals court to rehear the case.

That means that the two defendants completely cleared of fraud offenses might still remain in prison during a possible appeal:

- Investor Isaac Feldman, a once-prominent Sunny Isles Beach real estate broker, invested in the ring's Stars and VIP lounges on South Beach. Feldman, represented by the late attorney Myles Malman, was sentenced to more than eight years in prison. His conviction was completely overturned by the appeals court.
- Albert Takhalov, who managed credit-card transactions, received the stiffest sentence because he played a key role at five of the illicit clubs (VIP, Stars, Tangia, Nowhere Bar and Moreno) throughout the duration of the scheme from 2010-11. Takhalov was sentenced to 12 years. His fraud conviction was reversed, though an immigration violation still stands.

"This is a clear victory for Albert Takhalov today," said his attorney, Albert Levin.

- The ruling also could impact a third defendant: Stanislav Pavlenko, who managed credit-card transactions at one of the ring's Washington Avenue clubs, Caviar Bar. Pavlenko was sentenced to 6 1/2 years in prison. His conspiracy and other fraud charges were vacated. But a remaining fraud count still stands because Pavlenko wrote a letter to AMEX disputing the TV weatherman's complaint about his bloated credit card bill.

His attorney, Roderick Vereen, was still pleased: “This ruling should help reduce his sentence.”

A fourth defendant, Siavash Zargari, who did business with Takhalov, was acquitted at trial.

All lived in the Aventura, Sunny Isles Beach and Miami Beach areas before their so-called B-girl network was busted by the FBI in April 2011.

At trial, the defendants’ attorneys asked Judge Scola to include this specific jury instruction: that “failure to disclose the financial arrangement between the B-girls and the bar, in and of itself, is not sufficient to convict a defendant of any offense.” But Scola refused.

“In sum, the defendants asked the [judge] to tell the jurors that they could convict only if they found that the defendants had schemed to lie about the quality or price of the goods sold to the victims,” wrote Judge Amul Thapar, of the federal appeals panel. The panel concluded that the instruction was a “correct statement of the law” and “dealt with a sufficiently important point raised during the trial.”

In 2012, the jury reached its guilty verdicts on a variety of conspiracy, wire fraud and money-laundering charges after a long trial filled with tales about Miami Beach’s underground bar scene. The jury also issued acquittals on numerous wire fraud offenses involving credit-card transactions.

The 12-person jury heard testimony from Alec “Oleg” Simchuk, the admitted Russian mobster who organized the racket; a few bar girls who lured the male customers from swank hotels like the Delano to the private bars; the former TV weatherman who was taken for \$43,000 over two nights; and an undercover Miami Beach police officer who posed as a dirty cop and worked as a bouncer for the clubs while recording the illicit activity.

The puppet master behind the scam: Simchuk, a Russian native and naturalized U.S. citizen who testified about his partners and associates.

Simchuk, who pleaded guilty before trial, testified that he modeled the South Beach clubs after his former bars in Latvia and Estonia. He said he illegally brought many of the same young women who had worked for him there to South Florida.