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Appeal court rules partners in defunct Naples restaurant can't be prosecuted

By AISLING SWIFT

NAPLES — A state appeal court has upheld a Collier judge's ruling that two former business partners in a Naples restaurant can never be prosecuted on embezzlement charges for voiding roughly \$80,000 in customers' cash transactions.

The 2nd District Court of Appeal upheld a 2008 ruling by Acting Collier Circuit Judge Rob Crown that North Naples residents Elton Alikaj, 33, and Armond Alikaj, 38, partners with Thomas Scholten in the now-defunct Nektar Mediterranean restaurant, can't be prosecuted again.

There was no written opinion, just an order affirming Crown's ruling.

"The Alikajs have moved on and are running their new restaurant, Absinthe. Next time they won't be so trusting," said defense attorney Edward O'Donnell IV of Miami.

Noting that it was a unanimous decision, State Attorney's Office spokeswoman Samantha Syoen said there would be no further appeal.

A related lawsuit filed by Scholten, who owns Scholten Construction, may be headed toward dismissal due to inactivity.

The Seventh Avenue South restaurant was dissolved in 2008. It had lost almost \$500,000 after facing threats of eviction. Scholten covered those, losing about \$925,000 in the partnership.

Nektar opened in May 2005, with the brothers contributing \$50,000 each and Scholten providing \$100,000 and a \$382,887.83 loan. The brothers were to be paid \$1,000 weekly as managers.

Their 2006 arrest came after Scholten sued to gain control and dissolve the partnership. The brothers had locked him out of monitoring the finances by computer, so Scholten changed the building's locks.

Another manager had suspected irregularities and alerted Scholten, who asked a bookkeeper and accountant to conduct an audit. It found \$74,537 of voided cash transactions, including money for state sales taxes.

Naples police sent in undercover agents, cash-paying customers, and their transactions were voided. In the end, police said roughly \$80,000 was taken.

The brothers admitted voiding transactions, but denied it was embezzlement.

O'Donnell's father, co-counsel in the criminal hearings, called them "indentured servants" and argued they received less than \$1,000 weekly, working 12 to 16 hours daily — never closing the restaurant, even for Christmas.

Neither Scholten nor his attorney, Rachel Loukonen of Naples, could be reached for comment.