

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended June 28, 2009

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: **0-28234**



**Mexican Restaurants, Inc.**

(Exact name of registrant as specified in its charter)

**Texas**  
(State or other jurisdiction of  
incorporation or organization)

**76-0493269**  
(IRS Employer Identification Number)

**1135 Edgebrook, Houston, Texas**  
(Address of Principal Executive Offices)

**77034-1899**  
(Zip Code)

Registrant's telephone number, including area code: **713-943-7574**

Indicate by check mark whether the Registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the Registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files).

Yes  No

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

Number of shares outstanding of each of the issuer's classes of common stock, as of August 10, 2009: **3,262,641 shares, par value \$.01.**

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## PART 1 - FINANCIAL INFORMATION

## Item 1. Financial Statements

Mexican Restaurants, Inc. and Subsidiaries  
Consolidated Balance Sheets

	12/28/2008 (1)	
	(Unaudited)	(As
	6/28/2009	adjusted)
<b>ASSETS</b>		
Current assets:		
Cash	\$ 790,316	\$ 879,206
Royalties receivable	75,001	144,196
Other receivables	798,611	1,117,815
Inventory	581,105	597,237
Income taxes receivable	75,048	194,856
Prepaid expenses and other current assets	1,017,630	902,340
Assets related to discontinued operations	121,019	196,465
Assets held for sale	--	1,111,513
Total current assets	3,458,730	5,143,628
Property and equipment, net	17,675,548	17,866,902
Goodwill	5,017,243	6,273,705
Deferred tax assets	1,837,708	1,976,427
Other assets	178,986	208,325
Other assets related to leasing and exit activities	33,878	34,178
Total Assets	<u>\$ 28,202,093</u>	<u>\$ 31,503,165</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 2,078,746	\$ 2,288,698
Accrued sales, liquor, and payroll taxes	922,262	1,054,078
Accrued expenses	870,791	1,191,740
Liabilities related to assets held for sale	--	195,740
Current portion of liabilities associated with leasing and exit activities	397,298	325,625
Total current liabilities	4,269,097	5,055,881
Long-term debt	4,850,000	7,500,000
Liabilities associated with leasing and exit activities, net of current portion	680,056	567,445
Deferred gain	832,571	936,642
Other liabilities	1,989,213	1,956,921
Total Liabilities	12,620,937	16,016,889
Stockholders' equity:		
Preferred stock, \$0.01 par value, 1,000,000 shares authorized, none issued	--	--
Common stock, \$0.01 par value, 20,000,000 shares authorized, 4,732,705 shares issued	47,327	47,327
Additional paid-in capital	19,467,551	19,442,049
Retained earnings	9,092,803	9,120,885
Treasury stock at cost of 1,470,064 and 1,481,064 common shares at 6/28/09 and 12/28/08, respectively	(13,026,525)	(13,123,985)
Total stockholders' equity	15,581,156	15,486,276
Total Liabilities and Stockholders' Equity	<u>\$ 28,202,093</u>	<u>\$ 31,503,165</u>

(1) December 28, 2008 balances have been reclassified for discontinued operations. See Note 7.

See accompanying notes to consolidated financial statements.

**Mexican Restaurants, Inc. and Subsidiaries**  
**Consolidated Statements of Operations**  
(Unaudited)

	13-Week Period Ended 6/28/2009	13-Week Period Ended 6/29/2008	26-Week Period Ended 6/28/2009	26-Week Period Ended 6/29/2008
<b>Revenues:</b>				
Restaurant sales	\$ 18,107,695	\$ 18,716,991	\$ 37,121,251	\$ 37,114,548
Franchise fees, royalties and other	126,578	135,666	264,867	270,756
Business interruption	103,528	121,192	103,528	121,192
	<u>18,337,801</u>	<u>18,973,849</u>	<u>37,489,646</u>	<u>37,506,496</u>
<b>Costs and expenses:</b>				
Cost of sales	5,263,291	5,452,696	10,513,537	10,637,856
Labor	6,050,108	6,131,887	12,173,097	11,981,025
Restaurant operating expenses	4,522,659	4,442,446	9,304,997	9,049,984
General and administrative	1,632,038	1,702,278	3,318,767	3,696,341
Depreciation and amortization	885,013	811,558	1,752,970	1,609,665
Pre-opening costs	--	10,427	--	47,311
Impairment and restaurant closure costs	214,778	22,577	237,231	54,829
Loss (gain) on involuntary disposals	15,028	(149,338)	7,797	(275,709)
Loss on sale of other property and equipment	36,934	14,663	73,696	41,670
	<u>18,619,849</u>	<u>18,439,194</u>	<u>37,382,092</u>	<u>36,842,972</u>
Operating income (loss)	(282,048)	534,655	107,554	663,524
<b>Other income (expense):</b>				
Interest income	883	828	1,863	2,910
Interest expense	(42,918)	(91,689)	(105,111)	(233,212)
Other, net	9,601	10,126	20,102	17,458
	<u>(32,434)</u>	<u>(80,735)</u>	<u>(83,146)</u>	<u>(212,844)</u>
Income (loss) from continuing operations before income taxes	(314,482)	453,920	24,408	450,680
Income tax (expense) benefit	62,825	(101,237)	(2,983)	(102,763)
Income (loss) from continuing operations	<u>(251,657)</u>	<u>352,683</u>	<u>21,425</u>	<u>347,917</u>
<b>Discontinued Operations:</b>				
Income (loss) from discontinued operations	(39,436)	10,281	36,021	62,039
Restaurant closure income (expense)	(369)	--	(190,941)	52,289
Gain (loss) on sale of assets	387,083	(2,075)	386,502	(2,075)
Income from discontinued operations before income taxes	347,278	8,206	231,582	112,253
Income tax expense	(303,558)	(1,830)	(281,090)	(25,594)
Income (loss) from discontinued operations	<u>43,720</u>	<u>6,376</u>	<u>(49,508)</u>	<u>86,659</u>
Net income (loss)	<u>\$ (207,937)</u>	<u>\$ 359,059</u>	<u>\$ (28,083)</u>	<u>\$ 434,576</u>
<b>Basic income (loss) per common share</b>				
Income (loss) from continuing operations	\$ (0.07)	\$ 0.11	\$ 0.01	\$ 0.10
Income (loss) from discontinued operations	0.01	--	(0.02)	0.03
Net income (loss)	<u>\$ (0.06)</u>	<u>\$ 0.11</u>	<u>\$ (0.01)</u>	<u>\$ 0.13</u>
<b>Diluted income (loss) per common share</b>				
Income (loss) from continuing operations	\$ (0.07)	\$ 0.11	\$ 0.01	\$ 0.10
Income (loss) from discontinued operations	0.01	--	(0.02)	0.03
Net income (loss)	<u>\$ (0.06)</u>	<u>\$ 0.11</u>	<u>\$ (0.01)</u>	<u>\$ 0.13</u>
Weighted average number of common shares (basic)	<u>3,284,641</u>	<u>3,252,320</u>	<u>3,271,358</u>	<u>3,249,743</u>
Weighted average number of common shares (diluted)	<u>3,284,641</u>	<u>3,313,677</u>	<u>3,272,981</u>	<u>3,310,690</u>

See accompanying notes to consolidated financial statements.

**Mexican Restaurants, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
(Unaudited)

	<b>26-Week Period Ended 6/28/2009</b>	<b>26-Week Period Ended 6/29/2008</b>
<b>Cash flows from operating activities:</b>		
Net income (loss)	\$ (28,083)	\$ 434,576
(Income) loss from discontinued operations	49,508	(86,659)
Income from continuing operations	21,425	347,917
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	1,752,970	1,609,666
Deferred gain amortization	(104,071)	(104,071)
Impairment and restaurant closure costs	237,231	54,829
Gain (loss) on involuntary disposals	7,797	(275,709)
Loss on sale of other property & equipment	73,696	41,670
Stock based compensation expense	185,566	90,778
Excess tax benefit, net	39,751	(908)
Deferred income tax expense	115,866	8,985
Changes in operating assets and liabilities:		
Royalties receivable	69,195	(8,281)
Other receivables	319,204	(18,976)
Inventory	16,133	19,206
Income taxes receivable	80,057	6,966
Prepaid expenses and other current assets	(115,290)	111,130
Other assets	8,063	29,226
Accounts payable	(272,480)	(175,963)
Accrued expenses and other liabilities	(636,889)	(460,862)
Liabilities associated with leasing and exit activities	239,233	(134,600)
Deferred rent and other long-term liabilities	(38,751)	(10,726)
Total adjustments	1,977,281	782,360
Net cash provided by continuing operations	1,998,706	1,130,277
Net cash provided by (used in) discontinued operations	(402,786)	215,913
Net cash provided by operating activities	1,595,920	1,346,190
<b>Cash flows from investing activities:</b>		
Insurance proceeds received from involuntary disposals	54,731	350,000
Purchase of property and equipment	(1,667,143)	(2,017,969)
Proceeds from landlord for lease buildout	75,000	99,144
Net cash used in continuing operations	(1,537,412)	(1,568,825)
Purchase of property and equipment	(15,250)	(333,597)
Cash received from sale of La Senorita	2,557,603	--
Net cash provided by (used in) discontinued operations	2,542,353	(333,597)
Net cash provided by (used in) investing activities	1,004,941	(1,902,422)
<b>Cash flows from financing activities:</b>		
Borrowings under line of credit agreement	600,000	1,260,000
Payments under line of credit agreement	(3,250,000)	(1,160,000)
Excess tax benefit – stock-based compensation expense, net	(39,751)	908
Exercise of stock options	--	9,890
Net cash provided by (used in) financing activities	(2,689,751)	110,798
Net decrease in cash	(88,890)	(445,434)
Cash at beginning of period	879,206	1,154,629
Cash at end of period	\$ 790,316	\$ 709,195
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid during the period:		
Interest	\$ 115,141	\$ 267,020
Income taxes	\$ 90,672	\$ 88,771

See accompanying notes to consolidated financial statements.

**MEXICAN RESTAURANTS, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**1. Basis of Presentation**

In the opinion of Mexican Restaurants, Inc. (the "Company"), the accompanying unaudited consolidated financial statements contain all adjustments (consisting only of normal recurring accruals and adjustments) necessary for a fair presentation of the consolidated financial position as of June 28, 2009, and the consolidated statements of operations and cash flows for the 13-week and 26-week periods ended June 28, 2009 and June 29, 2008. The consolidated statements of operations for the 13-week and 26-week periods ended June 28, 2009 and June 29, 2008 are not necessarily indicative of the results to be expected for the full year or any other interim period. During the interim periods, we follow the accounting policies described in the notes to our consolidated financial statements in the Annual Report and Form 10-K for the year ended December 28, 2008 filed with the Securities and Exchange Commission on March 26, 2009. Reference should be made to such consolidated financial statements for information on such accounting policies and further financial detail.

The Company classifies as discontinued operations for all periods presented any component of the Company's business that the Company believes is probable of being sold that has operations and cash flows that are clearly distinguishable operationally and for financial reporting purposes. For those components, the Company has no significant continuing involvement after disposal, and their operations and cash flows are eliminated from ongoing operations. Sales of significant components of the Company's business not classified as discontinued operations are reported as a component of income from continuing operations.

**Impact of Recently Issued Accounting Standards**

We adopted Statement of Financial Accounting Standards ("SFAS") No. 157, "Fair Value Measurements" on December 31, 2007 for our financial assets and liabilities. SFAS 157 defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. See Note 1 in our most recently filed annual report for further discussion of fair value measurements. We adopted SFAS 157 for non-financial assets and liabilities effective on December 29, 2008.

In June 2008, the FASB issued FASB Staff Position ("FSP") Emerging Issues Task Force ("EITF") No. 03-6-1, "Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities." Under this FSP, unvested share-based payment awards that contain rights to receive nonforfeitable dividends (whether paid or unpaid) are participating securities, and should be included in the two-class method of computing EPS. The FSP is effective for fiscal years beginning after December 15, 2008, and interim periods within those years. Such adoption has not had a material effect on our consolidated statement of financial position, results of operations or cash flows.

In April 2008, the FASB issued FSP FAS 142-3, "Determination of the Useful Life of Intangible Assets" ("FSP 142-3"). FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, "Goodwill and Other Intangible Assets". This change is intended to improve the consistency between the useful life of a recognized intangible asset under SFAS 142 and the period of expected cash flows used to measure the fair value of the asset under SFAS 141(R) and other GAAP. The requirement for determining the useful lives must be applied prospectively to intangible assets acquired after the effective date and the disclosure requirements must be applied prospectively to all intangible assets recognized as of, and subsequent to, the effective date. FSP 142-3 is effective for financial statements issued for fiscal years beginning after December 15, 2008. Such adoption has not had a material effect on our consolidated statement of financial position, results of operations or cash flows.

In May 2009, the FASB issued Statement No. 165, "Subsequent Events", ("SFAS 165"), to establish general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. The new disclosure requirement is effective for interim reporting periods ending after June 15, 2009. The adoption of this staff position resulted in additional quarterly disclosures only.

In June 2009, the FASB issued SFAS No. 168, "The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles – a replacement of FASB Statement No. 162." The FASB Accounting Standards Codification ("Codification") will be the single source of authoritative nongovernmental U.S. generally accepted accounting principles ("GAAP"). Rules of interpretive releases of the Securities and Exchange Commission ("SEC") under authority of federal securities laws are also sources of authoritative GAAP for SEC registrants. This statement is effective for financial statements issued for interim and annual periods ending after September 15, 2009. The Codification does not change GAAP. We will adopt SFAS 168 in the third quarter of 2009. All future references to authoritative accounting literature will be referenced in accordance with the Codification.

## **2. Income Taxes**

In May 2006, the State of Texas enacted a business tax that is imposed on gross margin to replace the State's then-current franchise tax regime. The legislation's effective date was January 1, 2007, and as a result our first Texas margins tax ("TMT") return in 2008 was based on our 2007 operations. Although the TMT is imposed on an entity's gross margin rather than on its net income, certain aspects of the tax make it similar to an income tax. In accordance with the guidance provided in SFAS No. 109, "Accounting for Income Taxes", we have properly determined the impact of the legislation in the determination of our reported state current and deferred income tax liability.

In determining the provision for income taxes, the Company uses an estimated annual effective tax rate based on forecasted annual income and permanent items, statutory tax rates and tax planning opportunities in the various jurisdictions in which the Company operates. The impact of significant discrete items is separately recognized in the quarter in which they occur.

## **3. Stock-Based Compensation**

At June 28, 2009, we had one equity-based compensation plan from which stock-based compensation awards can be granted to eligible employees, officers or directors, the 2005 Long Term Incentive Plan. On May 28, 2008, the shareholders approved an amendment to the 2005 Long Term Incentive Plan to increase the number of shares authorized for issuance under this plan by 75,000 shares, from 350,000 shares to 425,000 shares. The Company's 1996 Long Term Incentive Plan, Stock Option Plan for Non-Employee Directors and 1996 Manager's Stock Option Plan have each terminated in accordance with its terms, but there are still options which remain exercisable under these plans until the earlier of ten years from the date of grant or no more than 90 days after the optionee ceases to be an employee of the Company. These Company plans are described in more detail in Note 5 of the consolidated financial statements in our Annual Report on Form 10-K for the fiscal year ended December 28, 2008. We utilize SFAS No. 123 (Revised) "Share-Based Payments" ("SFAS No. 123(R)") in accounting for stock-based compensation.

On May 28, 2008, our Board of Directors approved restricted stock grants to one Board member for 3,000 shares, vesting in equal increments over three years, and one consultant for 2,000 shares, vesting in equal increments over two years.

On May 28, 2008, our shareholders approved the Company's grant of 60,000 long-term performance units under the 2005 Plan to Mr. Glowacki.

In accordance with the May 22, 2007 Board approved grant, 10,000 shares of restricted stock were granted to Mr. Glowacki on May 22, 2009. The shares will vest over a four year period at a rate of 25% per year.

We receive a tax deduction for certain stock option exercises during the period in which the options are exercised. These deductions are generally for the excess of the price for which the options were sold over the exercise prices of the options. No stock options were exercised during the 13-week period ended June 28, 2009 and the Company received \$1,215 for the exercise of options for 375 shares during the 13-week period ended June 29, 2008. No stock options were exercised during the 26-week period ended June 28, 2009 and the Company received \$9,890 for the exercise of options for 2,875 shares during the 26-week period ended June 29, 2008.

## **4. Income per Share**

Basic income per share is based on the weighted average shares outstanding without any dilutive effects considered. Since the adoption of SFAS No. 123(R) in fiscal year 2006, diluted income per share is calculated using the treasury stock method, which considers unrecognized compensation expense as well as the potential excess tax benefits that reflect the current market price and total compensation expense to be recognized under SFAS No. 123(R). If the sum of the assumed proceeds, including the unrecognized compensation costs calculated under the treasury stock method, exceeds the average stock price, those options would be considered antidilutive and therefore excluded from the calculation of diluted income per share. For the 13-week period ended June 28, 2009, no incremental shares were added in the calculation of diluted income per share because they were antidilutive. For the 26-week period ended June 28, 2009, 1,623 incremental shares were added in the calculation of diluted income per share. For the 13-week and 26-week periods ended June 29, 2008, the incremental shares added in the calculation of diluted income per share were 61,357 and 60,947, respectively.

**5. Long-term Debt**

We entered into a Credit Agreement with Wells Fargo Bank, N.A. ("Wells Fargo") in June 2007 (the "Wells Fargo Agreement"). Originally, the Wells Fargo Agreement provided for a revolving loan of up to \$10 million, but the Wells Fargo Agreement was amended effective December 28, 2008, reducing the revolving loan by the amount of the net proceeds received from the sale of La Senorita, which reduced the revolver availability to approximately \$7.3 million on April 7, 2009. Effective June 28, 2009, the Wells Fargo Agreement was further amended primarily to extend the maturity date from June 29, 2010 to June 29, 2012. The June 2009 amendment to the Wells Fargo Agreement also increased the stipulated percentages payable in connection with London Interbank Offered Rate ("LIBOR") loans and letters of credit and changed total leverage ratio limits as a condition precedent to loans for growth capital expenditures. Under the Wells Fargo Agreement, we are required to maintain certain leverage ratios and fixed charge coverage ratios. We were in compliance with all covenants at June 28, 2009.

At our option, the revolving loan bears an interest rate equal to the Wells Fargo Base Rate plus a stipulated percentage or LIBOR plus a stipulated percentage. Accordingly, we are impacted by changes in the Base Rate and LIBOR. We are subject to a non-use fee of 0.50% on the unused portion of the revolver from the date of the Wells Fargo Agreement. The Wells Fargo Agreement also allows up to \$2.0 million in annual stock repurchases. We have pledged the stock of our subsidiaries, our leasehold interests, our patents and trademarks and our furniture, fixtures and equipment as collateral for our credit facility with Wells Fargo.

**6. Related Party Transactions**

Our Vice Chairman of the Board of Directors owns a Casa Olé franchise restaurant for which the Company receives royalties. For the 13-week periods ended June 28, 2009 and June 29, 2008, the Company recognized royalty income of \$6,138 and \$5,965, respectively, related to this restaurant. For the 26-week periods ended June 28, 2009 and June 29, 2008, the Company recognized royalty income of \$12,249 and \$11,700, respectively, related to this restaurant.

**7. Discontinued Operations**

On April 7, 2009, we sold substantially all of the operating assets and liabilities of our La Senorita restaurant chain (consisting of five site locations) located in Michigan. On January 24, 2009, we closed one underperforming Mission Burrito restaurant. In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets", the results of operations for the current and prior periods for the La Senorita chain and the closed Mission Burrito restaurant have been reported as discontinued operations.

Also in accordance with SFAS No. 144, the assets and liabilities related to the sale of the La Senorita chain that were sold have been classified as held for sale in the consolidated balance sheet as of December 28, 2008. The assets and liabilities of the Mission Burrito restaurant and certain assets and liabilities of La Senorita that were not sold have been classified as related to discontinued operations. Current liabilities related to discontinued operations of the closed Mission Burrito restaurant include estimated lease obligations and are included with current portion of liabilities associated with leasing and exit activities.

**8. Fair Value of Measurements**

The carrying amount of receivables, accounts payables and accrued expenses approximates fair value because of the immediate or short-term maturity of these financial instruments. The fair value of long-term debt is determined using current applicable rates for similar instruments and approximates the carrying value of such debt.

**9. Subsequent Events**

We evaluated subsequent events through the time of filing this Quarterly Report on Form 10-Q on August 12, 2009. We are not aware of any significant events that occurred subsequent to the balance sheet date but prior to the filing of this report that would have a material impact on our consolidated financial statements.



## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

### Special Note Regarding Forward-Looking Statements

This Form 10-Q contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the actual results, performance or achievements of the Company to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Such factors include, among others, the following: national, regional or local economic and real estate conditions; inflation; increased food, labor and benefit costs; growth strategy; dependence on executive officers; geographic concentration; increasing susceptibility to adverse conditions in the region; changes in consumer tastes and eating and discretionary spending habits; the risk of food-borne illness; demographic trends; inclement weather; traffic patterns; the type, number and location of competing restaurants; the availability of experienced management and hourly employees; seasonality and the timing of new restaurant openings; changes in governmental regulations; dram shop exposure; and other factors not yet experienced by the Company. The use of words such as "believes", "anticipates", "expects", "intends" and similar expressions are intended to identify forward-looking statements, but are not the exclusive means of identifying such statements. Readers are urged to carefully review and consider the various disclosures made by us in this report and in our most recently filed Annual Report and Form 10-K that attempt to advise readers of the risks and factors that may affect our business. We undertake no obligation to update any such statements or publicly announce any updates or revisions to any of the forward-looking statements contained herein, to reflect any change in our expectations with regard thereto or any change in events, conditions, circumstances or assumptions underlying such statements.

### General

We operate and franchise Mexican-theme restaurants featuring various elements associated with the casual dining experience under the names Casa Olé, Monterey's Little Mexico, Tortuga Coastal Cantina, Crazy Jose's and Mission Burrito. On April 7, 2009, we sold our La Senorita chain in order to focus our resources on our other store brands. At June 28, 2009 we operated 54 restaurants, franchised 17 restaurants and licensed two restaurants in various communities in Texas, Louisiana and Oklahoma.

Our primary source of revenues is the sale of food and beverages at Company-owned restaurants. We also derive revenues from franchise fees, royalties and other franchise-related activities with respect to our franchised restaurants. Franchise fee revenue from an individual franchise sale is recognized when all services relating to the sale have been performed and the restaurant has commenced operations. Initial franchise fees relating to area franchise sales are recognized ratably in proportion to the services that are required to be performed pursuant to the area franchise or development agreements and proportionately as the restaurants within the area are opened.

Over the last five years, we have focused our growth and development efforts primarily upon assimilating two significant acquisitions (13 restaurants purchased in 2004 from a franchisee and two Mission Burrito restaurants, and related concept rights, acquired in 2006), developing new prototypes for our Casa Olé, Monterey's and Mission Burrito restaurant concepts and initiating a program whereby we remodel several of our existing restaurants each year.

### Results of Operations

**Revenues.** Our revenues for the second quarter of fiscal year 2009 decreased \$636,048 or 3.4% to \$18.3 million compared with \$19.0 million for the same quarter in fiscal year 2008. Restaurant sales for second quarter 2009 decreased by \$609,296 or 3.3% to \$18.1 million compared with \$18.7 million for the second quarter of 2008. The decrease in restaurant revenues primarily reflects a decrease in same-store sales, partially offset by new restaurants revenues. For the second quarter ended June 28, 2009, Company-owned same-restaurant sales decreased approximately 6.6%, caused by a weakening economy. Franchised-owned same-restaurant sales, as reported by franchisees, decreased approximately 1.2% over the same quarter in fiscal 2008.

On a year-to-date basis, the Company's revenue decreased \$16,850 to \$37.5 million compared with the same 26-week period in fiscal 2008. Restaurant sales for the 26-week period ended June 28, 2009 increased \$6,703 to \$37.1 million compared with the same 26-week period in fiscal 2008. The flat sales primarily reflects a decline in same-store sales mostly offset by the re-opening of one restaurant that was closed last year due to fire damage and one new Mission Burrito restaurant. For the 26-week period ended June 28, 2009, Company-owned same-restaurant sales decreased approximately 2.8% and franchised-owned same-restaurant sales, as reported by franchisees, increased approximately 0.2% over the same quarter in fiscal 2008.

**Costs and Expenses.** Costs of sales, consisting of food, beverage, liquor, supplies and paper costs, was 29.1% as a percentage of restaurant sales for the second quarter of both fiscal years 2009 and 2008. Dairy and cheese costs declined in the 2009 second quarter as a percentage of restaurant sales by 100 basis points, but was offset by higher costs in all other categories.

On a year-to-date basis, costs of sales decreased as a percent of restaurant sales 40 basis points to 28.3% compared with 28.7% for the same 26-week period a year ago. Dairy and cheese declined as a percentage of restaurant sales in this period by 100 basis points; dry goods declined 21 basis points; meat and poultry was even with last year and all other categories were higher than the same period a year ago.

Labor and other related expenses increased as a percentage of restaurant sales 60 basis points to 33.4% as compared with 32.8% in the second quarter of fiscal year 2008. The increase reflects labor cost leverage that is lost when same-store sales decline; for example, both management labor and back of the house labor, which are semi-fixed in nature, increased as a percentage of sales due to the decline in sales.

On a year-to-date basis, labor and other related expenses increased as a percentage of restaurant sales 50 basis points to 32.8% compared with 32.3% for the 26-week period a year ago. Again, the increase primarily reflects labor cost leverage that is lost when same-store sales decline. Further, the 26-week period in fiscal year 2008 included a credit adjustment to group health insurance.

Restaurant operating expenses, which primarily include rent, property taxes, utilities, repair and maintenance, liquor taxes, property insurance, general liability insurance and advertising, increased as a percentage of restaurant sales 130 basis points to 25.0% as compared with 23.7% in the second quarter of fiscal year 2008. On a year-to-date basis, restaurant operating expenses increased 70 basis points to 25.1% compared with 24.4% for the 26-week period in fiscal year 2008. The increase primarily reflects higher coupon expense, repair and maintenance expense and semi-fixed costs, such as occupancy costs and insurance costs, reflecting the loss of leverage from declining same-store sales.

General and administrative expenses consist of expenses associated with corporate and administrative functions that support restaurant operations. As a percentage of total revenue, general and administrative expenses decreased 10 basis points to 8.9% for the second quarter of fiscal year 2009 as compared with 9.0% for the second quarter of fiscal year 2008. On a year-to-date basis, general and administrative expenses decreased 100 basis points to 8.9% compared with the 26-week period of fiscal 2008. In absolute dollars, general and administrative costs decreased \$70,240 and \$377,574 in the 13-week and 26-week periods of fiscal year 2009, respectively, compared with the same periods of fiscal year 2008. General and administrative expenses as a percentage of total revenues decreased due to the planned reduction in salaries, bonuses and most department expenses.

Depreciation and amortization expenses include the depreciation of fixed assets and the amortization of intangible assets. Depreciation and amortization expense increased as a percentage of total sales 50 basis points to 4.8% for the second quarter of fiscal year 2009 as compared with 4.3% the same quarter in fiscal year 2008. Such expense for the second quarter of fiscal year 2009 was \$73,455 higher than the second quarter in fiscal year 2008. The increase reflects additional depreciation expense for remodeled restaurants, new restaurants, and the replacement of equipment and leasehold improvements in various existing restaurants.

On a year-to-date basis, depreciation and amortization expenses increased as a percentage of total sales 40 basis points to 4.7% for the 26-week period of fiscal year 2009 as compared with 4.3% the same 26-week period in fiscal year 2008, or \$143,305 higher than the same 26-week period in fiscal year 2008. The increase was due to the reasons discussed above.

During the second quarter ended June 28, 2009, we did not open any new restaurants or incur any pre-opening costs. During the second quarter of fiscal year 2008, we reopened one restaurant that had been closed for repairs due to a fire, incurring \$10,427 in pre-opening costs.

**Impairment and Restaurant Closure Costs.** In accordance with SFAS No. 144, "Accounting for the Impairments or Disposal of Long-Lived Assets", long-lived assets, such as property and equipment, and purchased intangibles subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized by the amount by which the carrying amount of the asset exceeds the fair value of the asset.

The consolidated statements of operations for the 13-week and 26-week periods ended June 28, 2009, include a separate line item for impairment and restaurant closure costs of \$214,778 and \$237,231, respectively. The impairments and closure costs were primarily related to rent differential adjustments for two subleased restaurants located in Idaho, and to a lesser extent, two under-performing restaurants operating in the Houston area. The consolidated statements of operations for the 13-week and 26-week periods ended June 29, 2008, include a separate line item for impairment and restaurant closure costs of \$22,577 and \$54,829, respectively. The impairments and closure costs were primarily related to the same two under-performing restaurants.

**Gain on Involuntary Disposals.** The consolidated statements of operations for the 13-week and 26-week periods ended June 28, 2009 include a separate line item for a loss of \$15,028 and \$7,797, respectively. The losses resulted from costs related to our Hurricane Ike insurance claim, partially offset by insurance proceeds received for the replacement of assets. We anticipate finalizing all insurance claims related to the property damage from last year's hurricane during fiscal year 2009. The consolidated statements of operations for the 13-week and 26-week periods ended June 29, 2008 includes a separate line item for a gain of \$149,338 and \$275,709, respectively, resulting from the write-off of assets damaged by the February 2008 fire at the Company's Casa Olé restaurant located in Vidor, Texas, offset by insurance proceeds for the replacement of assets. The claim related to the Vidor fire has been fully settled with the insurance company.

The consolidated statements of operations for the 13-week and 26-week periods ended June 28, 2009 include a separate line item for revenues for business interruption insurance proceeds of \$103,528 related to a partial payment of \$75,000 for our Hurricane Ike claim combined with additional proceeds of \$28,528 related to the final payment for the claim related to the July 2008 fire at the Company's Casa Olé restaurant located in Pasadena, Texas. The consolidated statements of operations for the 13-week and 26-week periods ended June 29, 2008 include a separate line item for revenues for business interruption insurance proceeds of \$121,192 related to the February 2008 fire at the Company's Vidor, Texas Casa Olé restaurant.

**Loss on Sale of Other Property and Equipment.** The consolidated statements of operations for the 13-week periods ended June 28, 2009 and June 29, 2008 include a separate line item for loss on sale of other property and equipment of \$36,934 and \$14,663, respectively, primarily related to the routine disposal of restaurant assets. The consolidated statements of operations for the 26-week periods ended June 28, 2009 and June 29, 2008 include a separate line item for loss on sale of other property and equipment of \$73,696 and \$41,670, respectively, primarily related to the routine disposal of restaurant assets.

**Other Income (Expense).** Net expense decreased \$48,301 to \$32,434 in the 13-week period ended June 28, 2009 compared with a net expense of \$80,735 in the 13-week period ended June 29, 2008. Interest expense decreased \$48,771 to \$42,918 in the 13-week period ended June 28, 2009 compared with interest expense of \$91,689 in the 13-week period ended June 29, 2008. The decrease in interest expense reflects lower interest rates and lower average debt balances during the second quarter of fiscal year 2009 as compared to the second quarter of fiscal year 2008. Net expense decreased \$129,698 to \$83,146 in the 26-week period ending June 28, 2009 compared with a net expense of \$212,844 in the 26-week period ended June 29, 2008. Interest expense decreased \$128,101 to \$105,111 in the 26-week period ended June 28, 2009 compared with interest expense of \$233,212 in the 26-week period ended June 29, 2008. The decrease in interest expense reflects lower interest rates and lower average debt balances during the first half of fiscal year 2009 as compared to the first half of fiscal year 2008.

**Income Taxes.** The Company's effective tax rate from continuing operations for the 13-week period ended June 28, 2009 was a benefit of 20.00% as compared to an expense of 22.3% for the 13-week period ended June 29, 2008. The Company's effective tax rate from continuing operations for the 26-week period ended June 28, 2009 was an expense of 12.2% as compared to an expense of 22.8% for the 26-week period ended June 29, 2008. The decrease in the effective rate is attributed primarily to permanent differences related to the sale of our La Seniorita chain in Michigan. The Company's effective tax rate from discontinued operations for the 13-week period ended June 28, 2009 was an expense of 87.4% as compared to an expense of 22.3% for the 13-week period ended June 29, 2008. The Company's effective tax rate from discontinued operations for the 26-week period ended June 28, 2009 was an expense of 121.4% as compared to an expense of 22.8% for the 26-week period ended June 29, 2008. The increase in the effective rate is attributed to income tax expense related to the sale of our La Seniorita chain in Michigan in addition to a capital loss generated related to the La Seniorita sale that has been fully reserved.

**Discontinued Operations.** On April 7, 2009, we sold substantially all of the operating assets and liabilities of our La Senorita restaurant chain (consisting of five site locations) located in Michigan for \$2,557,603 as adjusted under the terms of the purchase agreement. We recorded a gain on this sale of \$387,083, net of allocated goodwill, in the second quarter of 2009. Proceeds from the sale were used to pay down long-term debt. On January 24, 2009, we closed one underperforming Mission Burrito restaurant. In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets", the results of operations for the current and prior periods for the La Senorita chain and the closed Mission Burrito restaurant have been reported as discontinued operations. For the 13-week and 26-week periods ended June 28, 2009, we recognized net income from discontinued operations of \$347,278 and \$231,582, respectively, from the sale of the chain and the closure of the Mission Burrito restaurant. Loss from discontinued operations of \$39,436 during the 13-week period ended June 28, 2009 reflects operating losses from the La Senorita restaurants. Income from discontinued operations of \$36,021 during the 26-week period ended June 28, 2009 reflects operating income from the La Senorita restaurants, partially offset by operating losses from the closed Mission Burrito restaurant. Restaurant closure costs of \$190,941, for the 26-week period ending June 28, 2009, primarily reflect costs associated with the closure of the Mission Burrito restaurant. Gain on sale of assets of \$387,083 and \$386,502 during the 13-week and 26-week periods ended June 28, 2009 resulted primarily from the sale of La Senorita.

Also in accordance with SFAS No. 144, the assets and liabilities related to the sale of the La Senorita chain that were sold have been classified as held for sale in the consolidated balance sheet as of December 28, 2008. The assets and liabilities of the Mission Burrito restaurant and certain assets and liabilities of La Senorita that were not sold have been classified as related to discontinued operations. We plan to use the furniture and equipment from the closed Mission Burrito restaurant at our new Mission Burrito restaurant that we will open later this year. Current liabilities related to discontinued operations of the closed Mission Burrito restaurant include estimated lease obligations and are included with current portion of liabilities associated with leasing and exit activities.

#### **Liquidity and Capital Resources**

We financed our capital expenditure requirements for the 26-week period ended June 28, 2009 primarily from our operating cash flows. In the initial 26-week period of fiscal year 2009, we had cash flows provided by operating activities of \$1.6 million, compared with cash flows provided by operating activities of \$1.3 million in the comparable 26-week period of fiscal year 2008. The increase in cash flows from operating activities reflects the receipt of insurance receivables related to last year's hurricanes and the Pasadena, Texas restaurant fire. During the 26-week period ended June 28, 2009, we made draws of \$600,000 and payments of \$3,250,000 on our line of credit. Proceeds from the sale of La Senorita contributed to the amount paid on the line of credit. As of June 28, 2009, we had a working capital deficit of \$810,367 compared with a working capital deficit (excluding assets held for sale) of \$1,023,766 at December 28, 2008. A working capital deficit is common in the restaurant industry, since restaurant companies do not typically require a significant investment in either accounts receivable or inventory.

Our principal capital requirements are the funding of routine capital expenditures, new restaurant development or acquisitions and remodeling of older units. During the 26-week period ended June 28, 2009, total cash used for capital requirements was \$1,682,393 with \$1,667,143 used in continuing operations and \$15,250 used in discontinued operations. Total cash used for capital requirements included \$1,340,344 spent for routine capital expenditures, \$115,250 for new restaurant development, \$83,437 for replacement of damaged assets and \$143,362 for remodels. We did not open any new restaurants during the first and second quarters of fiscal year 2009. We started construction on our sixth Mission Burrito restaurant during the second quarter of 2009. We anticipate that we will spend approximately \$1.2 million for capital expenditures during the remainder of fiscal year 2009.

We entered into a Credit Agreement with Wells Fargo Bank, N.A. ("Wells Fargo") in June 2007 (the "Wells Fargo Agreement"). Originally, the Wells Fargo Agreement provided for a revolving loan of up to \$10 million, but the Wells Fargo Agreement was amended effective December 28, 2008, reducing the revolving loan by the amount of the net proceeds received from the sale of La Senorita, which reduced the revolver availability to approximately \$7.3 million on April 7, 2009. Effective June 28, 2009, the Wells Fargo Agreement was further amended primarily to extend the maturity date from June 29, 2010 to June 29, 2012. The June 2009 amendment to the Wells Fargo Agreement also increased the stipulated percentages payable in connection with London Interbank Offered Rate ("LIBOR") loans and letters of credit under the Wells Fargo Agreement, added as a condition precedent to loans made to the Company for growth capital expenditures that the Company's total leverage ratio not exceed certain stated amounts, and amended certain financial covenants.

At our option, the revolving loan bears an interest rate equal to the Wells Fargo Base Rate plus a stipulated percentage or LIBOR plus a stipulated percentage. Accordingly, we are impacted by changes in the Base Rate and LIBOR. We are subject to a non-use fee of 0.50% on the unused portion of the revolver from the date of the Wells Fargo Agreement. The Wells Fargo Agreement also allows up to \$2.0 million in annual stock repurchases. We have pledged the stock of our subsidiaries, our leasehold interests, our patents and trademarks and our furniture, fixtures and equipment as collateral for our credit facility with Wells Fargo.

Although the Wells Fargo Agreement permits us to implement a share repurchase program for up to \$2.0 million annually under certain conditions, we currently have no repurchase programs in effect. Shares previously acquired are being held for general corporate purposes, including the offset of the dilutive effect on shareholders from the exercise of stock options.

On April 7, 2009, we sold substantially all of the operating assets and liabilities of our La Senorita restaurant chain (consisting of five site locations) located in Michigan for an adjusted price of \$2.6 million. Proceeds from the sale were used to pay down long-term debt. We recorded a gain on the sale of La Senorita of \$387,083 in the second quarter of 2009.

Our management believes that with its operating cash flows and our revolving line of credit under the Wells Fargo Agreement, funds will be sufficient to meet operating requirements and to finance routine capital expenditures and new restaurant growth through the next 12 months. Unless we violate a debt covenant, our credit facility with Wells Fargo, as amended, is not subject to triggering events that would cause the credit facility to become due sooner than the maturity date described in the previous paragraphs. As of June 28, 2009, the Company was in compliance with all debt covenants and as of the date hereof expects to be in compliance with its debt covenants during the next 12 months.

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to market risk from changes in interest rates on debt and changes in commodity prices. Our exposure to interest rate fluctuations is limited to outstanding bank debt. At June 28, 2009, there was \$4.85 million outstanding under the revolving credit facility which currently bears interest at 275 basis points (depending on leverage ratios) over LIBOR. Should interest rates based on these borrowings increase by one percentage point, estimated quarterly interest expense would increase by \$12,250.

#### *Effects of Inflation*

Components of our operations subject to inflation include food, beverage, lease and labor costs. Our leases require us to pay taxes, maintenance, repairs, insurance and utilities, all of which are subject to inflationary increases. We believe inflation has had a material impact on our results of operations in recent years.

#### *Commodity Price Risk*

We are exposed to market price fluctuations in beef, chicken, pork, dairy products, produce, tortillas and other food product prices. Given the historical volatility of these product prices, this exposure can impact our food and beverage costs. Because we typically set our menu prices in advance of these product purchases, we cannot quickly take into account changing costs. To the extent that we are unable to pass the increased costs on to our guests through price increases, our results of operations would be adversely affected. We currently do not use financial instruments to hedge our risk to market price fluctuations in food product prices.

#### *Interest Rates*

We do not have, or participate in, any transactions involving derivative, financial and commodity instruments. Our long-term debt bears interest at floating market rates, based upon either the prime rate or LIBOR plus a stipulated percentage, and therefore we experience changes in interest expense when market interest rates change.

The subprime mortgage crisis, subsequent disruptions to the financial markets, and continuing economic downturn may adversely impact the availability of credit already arranged and the availability and cost of credit in the future. The disruptions in the financial markets have had an adverse effect on the U.S. and world economy, and have negatively impacted recent consumer spending patterns. There can be no assurance that various U.S. and world government responses to the disruptions in the financial markets in the near future will restore consumer confidence, stabilize the markets, or increase liquidity or the availability of credit. Our future performance could be hindered by our accessibility to obtain financing.

#### **Item 4T. Controls and Procedures**

##### *Evaluation of Controls and Procedures*

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) that are designed to ensure that information required to be disclosed in Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), as appropriate, to allow timely decisions regarding required disclosures.

We evaluated the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rules 13a-15(e) and 15d-15(e) under the Exchange Act as of the end of the period covered by this report. Based on the evaluation, performed under the supervision and with the participation of management, including our CEO and CFO, our management, including our CEO and CFO, concluded that our disclosure controls and procedures were effective as of the period covered by this report.

##### *Changes in Internal Control Over Financial Reporting*

During the period covered by this report, there were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that materially affected or are reasonably likely to materially affect our internal control over financial reporting.

## **PART II - OTHER INFORMATION**

#### **Item 1A. Risk Factors**

There have been no material changes in the Company's risk factors from the disclosure set forth in our Annual Report on Form 10-K for the fiscal year ended December 28, 2008.

You should carefully consider the risk factors set forth in our Annual Report on Form 10-K and the other information set forth in the Annual Report in Form 10-K and this Quarterly Report on Form 10-Q. You should be aware that these risk factors and other information may not describe every risk facing us. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and/or operating results.

#### **Item 4. Submission of Matters to a Vote of Security Holders**

The Company held its 2009 annual meeting of shareholders on Wednesday, May 27, 2009. At the annual meeting, the Company's shareholders took the following actions:

- (1) By a vote of 3,190,965 for, 38,365 withheld, the shareholders elected Cara Denver as a Class I director for a term expiring at the annual meeting to be held in 2012 and until her successor is elected and qualified.
- (2) By a vote of 3,192,060 for, 37,270 withheld, the shareholders elected Larry N. Forehand as a Class I director for a term expiring at the annual meeting to be held in 2012 and until his successor is elected and qualified.
- (3) By a vote of 3,192,560 for, 36,770 withheld, the shareholders elected Thomas E. Martin as a Class I director for a term expiring at the annual meeting to be held in 2012 and until his successor is elected and qualified.

Additionally, the following current directors of the Company continued to serve as directors as of and following the 2009 annual meeting: Class II directors Michael D. Domec, Curt Glowacki and Louis P. Neeb, and Class III directors Joseph J. Fitzsimmons and Lloyd Fritzmeier.

**Item 6. Exhibits**

Exhibit Number	Document Description
<a href="#">3.1</a>	<a href="#">Bylaws of Mexican Restaurants, Inc. as of May 27, 2009</a>
<a href="#">31.1</a>	<a href="#">Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
<a href="#">31.2</a>	<a href="#">Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>
<a href="#">32.1</a>	<a href="#">Certification of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>
<a href="#">32.2</a>	<a href="#">Certification of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>

Items 1, 2, 3 and 5 of this Part II are not applicable and have been omitted.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**Mexican Restaurants, Inc.**

Dated: August 12, 2009  
Curt Glowacki  
Chief Executive Officer  
(Principal Executive Officer)

By: /s/ Curt Glowacki

Dated: August 12, 2009  
Andrew J. Dennard  
Executive Vice President, Chief Financial Officer & Treasurer  
(Principal Financial Officer and Principal Accounting Officer)

By: /s/ Andrew J. Dennard



**BYLAWS  
OF  
MEXICAN RESTAURANTS, INC.  
AS OF MAY 27, 2009**

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OF  
MEXICAN RESTAURANTS, INC.**

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**BYLAWS  
OF  
MEXICAN RESTAURANTS, INC.**

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**ARTICLE I**

**OFFICES**

- 1.1 Registered Office. The registered office, until changed by action of the Board of Directors, shall be located at 811 Dallas Avenue, Houston, Texas 77002.
- 1.2 Other Offices. The corporation also may have offices at such other places both within and without the State of Texas as the Board of Directors may from time to time determine or as the business of the corporation may require.

**ARTICLE II**

**MEETINGS OF THE SHAREHOLDERS**

- 2.1 Place of Meetings. All meetings of shareholders for the election of directors or for any other proper purpose shall be held at such place within or without the State of Texas as the Board of Directors may from time to time designate, as stated in the notice of such meeting or a duly executed waiver of notice thereof.
- 2.2 Annual Meeting. An annual meeting of shareholders shall be held at such time and date as the Board of Directors may determine. At such meeting the shareholders entitled to vote thereat shall elect a Board of Directors and may transact such other business as may properly be brought before the meeting.
- 2.3 Special Meetings. Special meetings of the shareholders may be called at any time only by the Board of Directors, the Chief Executive Officer, the corporation's President or the holders of not less than 33-1/3% of the shares entitled to vote at the proposed special meeting. If not otherwise fixed in accordance with these Bylaws, the record date for determining shareholders entitled to call a special meeting is the date the first shareholder signs the notice of such meeting.
- 2.4 Notice of Annual or Special Meeting. Written or printed notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called shall be delivered not less than 10 nor more than 60 days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the officer or person calling the meeting to each shareholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the shareholder at his or her address as it appears on the share transfer records of the corporation, with postage thereon prepaid.
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2.5 Business at Special Meeting. The business transacted at any special meeting of shareholders shall be limited to the purposes stated in the notice thereof.

2.6 Quorum of Shareholders. Unless otherwise provided in the Articles of Incorporation, with respect to any matter, the holders of a majority of the shares entitled to vote on that matter, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If, however, a quorum shall not be present or represented at any meeting of the shareholders, the holders of a majority of the shares represented in person or by proxy at the meeting shall have the power to adjourn the meeting until such time and to such place as they shall determine, without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally notified. The shareholders present at a duly organized meeting may continue to transact business until adjournment, and the subsequent withdrawal of any shareholder or the refusal of any shareholder to vote shall not affect the presence of a quorum at the meeting.

2.7 Act of Shareholders Meeting. With respect to any matter other than the election of directors or a matter for which the affirmative vote of the holders of a specified portion of the shares entitled to vote is required by law, the Articles of Incorporation, or these Bylaws, the affirmative vote of the holders of a majority of the shares entitled to vote on that matter and represented in person or by proxy at a meeting of shareholders at which a quorum is present shall be the act of shareholders. Unless otherwise provided in the Articles of Incorporation, directors shall be elected by a plurality of the votes cast by the holders of shares entitled to vote in the election of directors and represented in person or by proxy at a meeting of shareholders at which a quorum is present.

2.8 Voting of Shares. Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent otherwise provided by law or the Articles of Incorporation. At each election for directors, every shareholder entitled to vote at such election shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has the right to vote. Unless permitted by the Articles of Incorporation, no shareholder shall be entitled to cumulate his or her votes by giving one candidate as many votes as the number of such directors to be elected multiplied by the number of shares owned by such shareholder or by distributing such votes on the same principle among any number of such candidates.

2.9 Proxies. At any meeting of the shareholders, each shareholder having the right to vote shall be entitled to vote either in person or by proxy executed in writing by the shareholder or his or her duly authorized attorney-in-fact. A telegram, telex, cablegram or similar transmission by the shareholder or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by the shareholder shall be treated as an execution in writing for purposes of this section. No proxy shall be valid after 11 months from the date of its execution unless otherwise provided in the proxy. Each proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest. An irrevocable proxy, if noted conspicuously on the certificate representing the shares that are subject to the irrevocable proxy, shall be specifically enforceable against the holder of those shares or any successor or transferee of the holder. Unless noted conspicuously on the certificate representing the shares that are subject to the irrevocable proxy, an irrevocable proxy, even though otherwise enforceable, is ineffective against a transferee for value without actual knowledge of the existence of the irrevocable proxy at the time of the transfer or against any subsequent transferee (whether or not for value), but such an irrevocable proxy shall be specifically enforceable against any other person who is not a transferee for value from and after the time that the person acquires actual knowledge of the existence of the irrevocable proxy.

2.10 Voting List. The officer or agent having charge of the stock transfer books for shares of the corporation shall make, at least 10 days before each meeting of shareholders, a complete list of the shareholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and number of shares held by each shareholder, which list, for a period of 10 days prior to such meeting, shall be kept on file at the registered office or principal place of business of the corporation and shall be subject to inspection by any shareholder at any time during usual business hours. Such list also shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting. The original stock transfer books shall be prima-facie evidence as to who are the shareholders entitled to examine such list or transfer books or to vote at any such meeting of shareholders.

2.11 Judges of Election. The Board of Directors may appoint judges of election to serve at any election of directors and at voting on any other matter that may properly come before a meeting of shareholders. If not such appointment shall be made, or if any of the judges so appointed shall fail to attend, or refuse or be unable to serve, then such appointment may be made by the presiding officer at the meeting.

2.12 Organization. At each meeting of the shareholders, one of the following shall act as the chairman of the meeting and preside thereat, in the following order of precedence:

- (a) the President (or officer holding a similar position);
- (b) the Chairman of the Board of Directors;
- (c) any other officer of the corporation designated by the Board of Directors; or
- (d) a shareholder of record of the corporation who shall be chosen by the holders of a majority of the voting stock of the corporation present in person or by proxy and entitled to vote at such meeting.

The Secretary of the corporation shall act as secretary and keep the minutes of each meeting of the shareholders unless the Secretary is presiding over or absent from such meeting. If the Secretary is presiding over or absent from any meeting of the shareholders, the chairman of such meeting shall appoint any Assistant Secretary or, if no Assistant Secretary is present at the meeting, any other person to act as the secretary and keep the minutes of such meeting.

2.13 Action by Written Consent Without a Meeting. Any action required or permitted by law, the Articles of Incorporation, or these Bylaws to be taken at a meeting of the shareholders may be taken only upon a vote of shareholders at an annual, regular, or special meeting duly called or by consent or consents in writing, setting forth the action so taken, signed by the holder or holders of all the shares entitled to vote with respect to the action that is the subject of the consent.

### ARTICLE III

#### BOARD OF DIRECTORS

3.1 Powers. The powers of the corporation shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, the Board of Directors, which may exercise all such powers of the corporation and do all such lawful acts and things as are not by law, the Articles of Incorporation, or these Bylaws directed or required to be exercised and done by the shareholders.

3.2 Number of Directors. The Board of Directors shall consist of one or more, which number of directors shall be determined by resolution of the Board of Directors, but no decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

3.3 Election and Terms. The initial directors of the corporation shall hold office until the first annual meeting of shareholders and until his or her successor is elected and qualified or until such director's death, resignation or removal in accordance with these bylaws. Commencing with the first annual meeting of shareholders, the directors shall be divided into three classes, designated Class I, Class II and Class III. The number of directors in each class shall be the whole number contained in the quotient arrived at by dividing the authorized number of directors by three, and if a fraction is also contained in such quotient, then if such fraction is one-third (1/3) the extra director shall be a member of Class III and if the fraction is two-thirds (2/3) one of the extra directors shall be a member of Class III and the other shall be a member of Class II. The term of office of directors elected to each class at the first annual meeting of shareholders shall expire as follows: Class I shall expire at the 1997 annual meeting of shareholders, Class II shall expire at the 1998 annual meeting of shareholders, Class III shall expire at the 1999 annual meeting of shareholders. At each annual meeting of shareholders following the first annual meeting of shareholders, directors shall be elected to succeed those directors whose terms expire at such meeting, and the directors elected at such meeting shall be elected for a term of office to expire at the third succeeding annual meeting of shareholders after their election. All directors shall hold office until the annual meeting of shareholders for the year in which their term expires and until their successors are duly elected and qualified or until their earlier death, resignation, disqualification, or removal. Except as may be provided by the Articles of Incorporation, directors need not be residents of the State of Texas or shareholders of the corporation.

3.4 Vacancies. Any vacancy occurring in the Board of Directors may be filled by election at an annual meeting or a special meeting of the shareholders called for that purpose or by the affirmative vote of a majority of the remaining directors even though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office. Any directorship to be filled by reason of an increase in the number of directors may be filled by election at an annual meeting or at a special meeting of the shareholders called for that purpose or may be filled by the Board of Directors for a term of office continuing only until the next election of one or more directors by the shareholders; provided that the Board of Directors may not fill more than two such directorships during the period between any two successive annual meetings of shareholders.

Notwithstanding the preceding provisions of this section, whenever the holders of any class or series of shares or group of classes or series of shares are entitled to elect one or more directors by the provisions of the Articles of Incorporation, any vacancies in such directorships and any newly created directorships of such class or series to be filled by reason of an increase in the number of such directors may be filled by the affirmative vote of a majority of the directors elected by such class or series, or by such group, then in office or by a sole remaining director so elected or by vote of the holders of the outstanding shares of such class or series or of such group, and such directorships shall not in any case be filled by the vote of the remaining directors or the holders of the outstanding shares as a whole unless otherwise provided in the Articles of Incorporation.

3.5 Resignation and Removal. Any director may resign at any time upon giving written notice to the corporation. At any meeting of shareholders called expressly for the purpose of removing a director or directors, any director or the entire Board of Directors may be removed, with or without cause, by a vote of the holders of at least two-thirds of the outstanding shares of capital stock of the corporation entitled to vote.



3.6 Compensation of Directors. As specifically prescribed from time to time by resolution of the Board of Directors, the directors of the corporation may be paid their expenses of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary in their capacity as directors or any combination of such types of compensation. This provision shall not preclude any director from serving the corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

3.7 Chairman of the Board of Directors. The Board of Directors, at its first meeting after each annual meeting of shareholders, may elect one of its members Chairman of the Board of Directors. The Chairman of the Board of Directors shall preside at all meetings of the Board of Directors and shall have such other powers and duties as usually pertain to such position or as may be delegated by the Board of Directors.

#### ARTICLE IV

##### MEETINGS OF THE BOARD OF DIRECTORS

4.1 First Meeting. The first meeting of each newly elected Board of Directors shall be held without notice immediately following the annual meeting of shareholders at which directors were elected, at the same place as such shareholders meeting or at such other time and place either within or without the State of Texas as shall be designated by the Secretary upon the written request of a majority of the directors then constituting the Board of Directors.

4.2 Regular Meetings. Regular meetings of the Board of Directors may be held with or without notice at such time and at such place either within or without the State of Texas as from time to time shall be prescribed by resolution of the Board of Directors.

4.3 Special Meetings. Special meetings of the Board of Directors may be called by the Chairman of the Board of Directors or the President and shall be called by the Chairman of the Board of Directors, the President, or the Secretary on the written request of two directors. Written notice of special meetings of the Board of Directors shall be given to each director as least 24 hours prior to the time of the meeting.

4.4 Business at Regular or Special Meeting. Neither the business to be transacted nor the purpose of any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

4.5 Quorum of Directors. A majority of the number of directors fixed in the manner provided in these Bylaws shall constitute a quorum for the transaction of business, unless a greater number is required by law or the Articles of Incorporation. If a quorum shall not be participating at any meeting of the Board of Directors, the directors participating thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be participating.

4.6 Interested Directors. No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other corporation, partnership, association or other organization in which one or more of such corporation's directors or officers are directors or officers or have a financial interest, shall be void or voidable solely for this reason, solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee of the Board of Directors that authorizes the contract or transaction or solely because his or her votes are counted for such purpose if:

(a) The material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or

(b) The material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the shareholders entitled to vote on such contract or transaction, and the contract or transaction is specifically approved in good faith by vote of the shareholders; or

(c) The contract or transaction is fair as to the corporation as of the time it is authorized, approved, or ratified by the Board of Directors, a committee of the Board of Directors, or the shareholders.

Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee that authorizes the contract or transaction.

4.7 Act of Directors Meeting. The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by law or the Articles of Incorporation.

4.8 Action by Written Consent Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors or any committee of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all members of the Board of Directors or committee, as the case may be. Such consent shall have the same force and effect as a unanimous vote at such meeting.

**ARTICLE V**

**COMMITTEES**

The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members one or more committees, each of which shall be comprised of one or more of its members, and may designate one or more of its members as alternate members of any committee, who, subject to any limitations imposed by the Board of Directors, may replace absent or disqualified members at any meeting of that committee. Any such committee, to the extent provided in such resolution or in the Articles of Incorporation, shall have and may exercise all of the authority of the Board of Directors, subject to the limitations imposed by applicable law. Vacancies in the membership of the committee shall be filled by the Board of Directors at a regular or special meeting of the Board of Directors. All committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required. The designation of a committee of the Board of Directors and the delegation to such committee of authority shall not operate to relieve the Board of Directors, or any member of the Board of Directors, of any responsibility imposed upon it or him or her by law. To the extent applicable, the provisions of Article IV of these Bylaws governing the meetings of the Board of Directors likewise shall govern the meetings of any committee of the Board of Directors.

**ARTICLE VI**

**NOTICES**

6.1 Methods of Giving Notice. Whenever any notice to be given to any shareholder or director under the provisions of any law, the Articles of Incorporation, or these Bylaws, it shall be given in writing and delivered personally or mailed to such shareholder or director at such address as appears on the records (or in the case of a shareholder, the stock transfer books) of the corporation, and such notice, if mailed, shall be deemed to be delivered at the time when the same shall be deposited in the United States mail with sufficient postage thereon prepaid. Notice to directors also may be given by telegram or teletype, and notice given by such means shall be deemed given at the time the telegram is delivered to the telegraph office or the teletype is actually received by the director.

6.2 Waiver of Notice. Whenever any notice is required to be given to any shareholder or director under the provisions of any law, the Articles of Incorporation, or these Bylaws, a waiver of such notice in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be deemed equivalent to the giving of such notice.

6.3 Attendance as Waiver. Attendance of a director at a meeting of the Board of Directors or a committee thereof shall constitute a waiver of notice of such meeting, except when a director attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

#### ARTICLE VII

##### ACTION WITHOUT A MEETING BY USE OF CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT

Subject to the provisions hereof requiring or permitting notice of meeting, unless otherwise restricted by the Articles of Incorporation or these Bylaws, shareholders, members of the Board of Directors, or members of any committee designated by such Board of Directors may participate in and hold a meeting of such shareholders, Board of Directors, or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such a meeting shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

#### ARTICLE VIII

##### OFFICERS

8.1 Executive Officers. The officers of the corporation shall consist of a President and a Secretary, and may also include a Vice Chairman, one or more Vice Presidents, a Treasurer, a Chief Operating Officer, and such other officers as may be deemed necessary or desirable by the corporation's board of directors. Any Vice President of the corporation, by the addition of a number or a word or words before or after the title "Vice President," may be designated "Senior Executive," "Executive," "Senior," "Trust," "Second," or "Assistant" Vice President. Each officer of the corporation shall be elected by the Board of Directors as provided in Section 8.2 of this Article. Any two or more offices may be held by the same person.

8.2 Election and Qualification. The Board of Directors, at its first meeting after each annual meeting of shareholders, shall elect a President and a Secretary. The Board of Directors also may elect one or more Vice Presidents, a Treasurer, and such other officers, including assistant officers and agents, as may be deemed necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

8.3 Term, Removal and Vacancies. Each officer of the corporation shall hold office until his or her successor is chosen and qualified or until his or her death, resignation, or removal. Any officer may resign at any time upon giving written notice to the corporation. Any officer or agent or member of a committee elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent or member of a committee shall not of itself create contract rights. Any vacancy occurring in any office of the corporation by death, resignation, removal or otherwise shall be filled by the Board of Directors.

8.4 Chief Executive Officer. Unless the Board of Directors designates otherwise, the President shall be the Chief Executive officer of the corporation. The Chief Executive Officer shall preside at all meetings of the shareholders. The Chief Executive Officer shall have such other powers and duties as usually pertain to such office or as may be delegated by the Board of Directors.

8.5 President. The President shall have such powers and duties as usually pertain to such office, except as the same may be modified by the Board of Directors. Unless the Board of Directors shall otherwise delegate such duties, the President shall be ex-officio a member of all standing committees, shall have general powers of oversight, supervision, and management of the business and affairs of the corporation, and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall execute bonds, mortgages, instruments, contracts, agreements, and other documentation, except when the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the corporation.

8.6 Vice Presidents. Unless otherwise determined by the Board of Directors, one of the Vice Presidents, in the absence or disability of the President, shall perform the duties and exercise the powers of the President. The various Vice Presidents shall perform such other duties and have such other powers as the Board of Directors shall prescribe or as the President shall delegate.

8.7 Secretary. The Secretary shall attend all meetings of the Board of Directors and of the shareholders, record all the proceedings of the meetings of the Board of Directors and of the shareholders in a book to be kept for that purpose, and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the shareholders and special meetings as may be prescribed by the Board of Directors or the President. The Secretary shall keep in safe custody the seal of the corporation and, when authorized by the Board of Directors, affix the same to any instrument requiring it, and, when so affixed, it shall be attested by the Secretary's signature or by the signature of an Assistant Secretary, or if there be none, the signature of the Treasurer acting as Assistant Secretary.

8.8 Assistant Secretaries. Unless otherwise determined by the Board of Directors, an Assistant Secretary, in the absence or disability of the Secretary, shall perform the duties and exercise the powers of the Secretary. An Assistant Secretary shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

8.9 Treasurer. The Treasurer shall have the custody of the corporate funds and securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation, and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors at its regular meetings, or when the Board of Directors so requires, an account of all his or her transactions as Treasurer, and of the financial condition of the corporation.

8.10 Assistant Treasurers. Unless otherwise determined by the Board of Directors, an Assistant Treasurer, in the absence or disability of the Treasurer, shall perform the duties and exercise the powers of the Treasurer. An Assistant Treasurer shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

8.11 Officer's Bond. If required by the Board of Directors, any officer so required shall give the corporation a bond (which shall be renewed as the Board of Directors may require) in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the corporation, in case of his or her death, resignation, retirement, or removal from office, of any and all books, papers, vouchers, money, and other property of whatever kind in his or her possession or under his or her control belonging to the corporation.

## ARTICLE IX

### INDEMNIFICATION

9.1 Indemnification by the Corporation. The corporation shall indemnify any person who was, is, or is threatened to be made a named defendant or respondent in a proceeding (as hereinafter defined) because the person (a) is or was a director or officer of the corporation or (b) while a director or officer of the corporation, is or was serving at the request of the corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, to the fullest extent that a corporation may grant indemnification to a person serving in such capacity under the Texas Business Corporation Act, as the same exists or may hereafter be amended.

9.2 Expenses; Procedure. The right to indemnification provided for in Section 9.1 shall be a contract right and shall include the right to be paid by the corporation for all expenses incurred in defending any such proceeding in advance of its final disposition to the maximum extent permitted under the Texas Business Corporation Act, as the same exists or may hereafter be amended. If a claim for indemnification or advancement of expenses hereunder is not paid in full by the corporation within 90 days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim, and if successful in whole or in part, the claimant shall be entitled to be paid also the expenses of prosecuting such claim. It shall be a defense to any such action that such indemnification of advancement of costs of defense is not permitted under the Texas Business Corporation Act, but the burden of proving such defense shall be on the corporation. Neither the failure of the corporation (including its Board of Directors or any committee thereof, special legal counsel, or shareholders) to have made its determination prior to the commencement of such action that indemnification of, or advancement of costs of defense to, the claimant is permissible in the circumstances nor an actual determination by the corporation (including its Board of Directors or any committee thereof, special legal counsel, or shareholders) that such indemnification or advancement is not permissible shall be a defense to the action or create a presumption that such indemnification or advancement is not permissible.

9.3 Additional Indemnification. The corporation additionally may indemnify any person covered by the grant of mandatory indemnification contained above to such further extent as is permitted by law and may indemnify any other person to the fullest extent permitted by law.

9.4 Definition. As used herein, the term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative, any appeal in such an action, suit or proceeding, and any inquiry or investigation that could lead to such an action, suit or proceeding.

## ARTICLE X

### CERTIFICATES FOR SHARES

10.1 Certificated and Uncertificated Shares. Shares of capital stock of the corporation may, but shall not be required to, be issued in certificated form. If such shares are certificated, such certificates shall be numbered and shall be entered in the books of the corporation as they are issued, and shall be signed by the President or a Vice President, and the Secretary or an Assistant Secretary, of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the President or Vice President and Secretary or Assistant Secretary upon a certificate may be facsimiles, if the certificate is countersigned by a transfer agent or registered by a registrar, either of which is other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he or she were such officer at the date of its issuance. If the corporation is authorized to issue shares of more than one class of shares or series, (i) there shall be set forth conspicuously upon the face or back of the certificate a full statement of the designations, preferences, limitations, and relative rights of the shares of each class or series to the extent they have been fixed and determined and the authority of the Board of Directors to fix and determine the designations, preferences, limitations, and relative rights of subsequent series or (ii) there shall be a conspicuous statement on the face or back of the certificate that (a) such a statement is set forth in the corporation's Articles of Incorporation on file with the Secretary of State of the State of Texas and (b) the corporation will furnish a copy of such statement to the record holder of the certificate without charge upon written request to the corporation at its principal place of business or registered office. Each certificate representing shares shall state upon the face thereof that the corporation is organized under the laws of the State of Texas, the name of the person to whom issued, the number and the class and the designation of the series, if any, which such certificate represents, and the par value of each share represented by such certificate or a statement that the shares are without par value. No shares of capital stock shall be issued until the consideration has been fully paid.

10.2 Restriction on Transfer of Shares. If any restriction on the transfer, or registration of the transfer, of shares shall be imposed or agreed to by the corporation, as permitted by law, the Articles of Incorporation, or these Bylaws, such restriction shall be noted conspicuously on each certificate representing shares in accordance with applicable law.

10.3 Voting Agreements. A written counterpart of any voting agreement entered into among any number of shareholders of the corporation, or any number of shareholders of the corporation and the corporation itself, for the purpose of providing that shares of the corporation shall be voted in the manner prescribed in the agreement shall be deposited with the corporation at its principal place of business or registered office and shall be subject to the same right of examination by a shareholder of the corporation, in person or by agent or attorney, as are the books and records of the corporation. The existence of the agreement shall be noted conspicuously on the certificate representing the shares that are subject to the agreement.

10.4 Transfer of Shares. Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction upon its books.

10.5 Lost, Stolen or Destroyed Certificates. The Board of Directors, the President, or such other officer or officers of the corporation as the Board of Directors may from time to time designate may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost, stolen, or destroyed upon the making of an affidavit of that fact by the person claiming the certificate or certificates of stock to be lost, stolen, or destroyed. When issuing such of a new certificate or certificates, the Board of Directors, the President, or such other officer or officers, in its or his or her discretion and as a condition precedent to the issuance thereof, may require the owner of such lost, stolen, or destroyed certificate or certificates, or his or her legal representative, to advertise the same in such manner as it or he or she shall require and/or to give the corporation a bond in such form, in such sum, and with such surety or sureties as it or he or she may direct as indemnity against any claim that may be made against the corporation with respect to the certificate or certificates alleged to have been lost, stolen, or destroyed.



10.6 Closing of Transfer Books and Record Date. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or entitled to receive a distribution by the corporation (other than a distribution involving a purchase or redemption by the corporation of any of its own shares) (a "Distribution") or a share dividend, or in order to make a determination of shareholders for any other proper purpose (other than determining shareholders entitled to consent to action taken by shareholders that is proposed to be taken without a meeting of shareholders), the Board of Directors may provide that the share transfer records shall be closed for a stated period but not to exceed, in any case, 60 days. If the share transfer records shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such records shall be closed for at least 10 days immediately preceding such meeting. In lieu of closing the share transfer records, the Board of Directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than 60 days and, in case of a meeting of shareholders, not less than 10 days prior to the date on which the particular action requiring such determination of shareholders is to be taken. If the share transfer records are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive a Distribution or a share dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the Board of Directors declaring such Distribution or share dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this Section 10.6, such determination shall apply to any adjournment thereof, except when the determination has been made through the closing of the share transfer records and the stated period of closing has expired.

10.7 Registered Shareholders. The corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

## ARTICLE XI

### GENERAL PROVISIONS

11.1 Dividends. Dividends upon the outstanding shares of the corporation, except as provided by applicable law and the Articles of Incorporation, may be declared by the Board of Directors at any annual, regular or special meeting. Dividends may be declared and paid in cash, property, shares of the corporation, or any combination thereof. The declaration and payment shall be at the discretion of the Board of Directors.

11.2 Reserves. There may be created from time to time by resolution of the Board of Directors, out of the earned surplus of the corporation, such reserve or reserves as the directors in their discretion think proper to provide for contingencies, or to equalize dividends, or to repair or maintain any property of the corporation, or for such other purpose as the directors shall think beneficial to the corporation, and the directors may modify or abolish any such reserve in the manner in which it was created.

11.3 Negotiable Instruments. All bills, notes, checks, or other instruments for the payment of money shall be signed or countersigned by such officer or officers or such other person or persons and in such manner as are permitted by these Bylaws or in such manner as the Board of Directors may from time to time prescribe by resolution.

11.4 Fiscal Year. The fiscal year of the corporation shall be fixed by resolution of the Board of Directors.

11.5 Seal. The corporation may have a corporate seal and, if the Board of Directors adopts a corporate seal, the corporate seal shall have inscribed thereon the name of the corporation and may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

11.6 Books and Records. The corporation shall keep books and records of account and shall keep minutes of the proceedings of the shareholders, the Board of Directors, and each committee of the Board of Directors. The corporation shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of the original issuance of shares issued by the corporation and a record of each transfer of those shares that have been presented to the corporation for registration of transfer. Such records shall contain the names and addresses of all past and current shareholders of the corporation and the number and class or series of shares issued by the corporation held by each of them. Any books, records, minutes, and share transfer records may be in written form or in any other form capable of being converted into written form within a reasonable time.

**ARTICLE XII**

**AMENDMENTS**

These Bylaws shall be adopted by the Board of Directors. The Board of Directors may amend or repeal these Bylaws or adopt new bylaws, unless (a) the Articles of Incorporation or applicable law reserves the power exclusively to the shareholders in whole or in part or (b) the shareholders in amending, repealing or adopting a particular bylaw expressly provide that the Board of Directors may not amend or repeal that bylaw. Unless the Articles of Incorporation or a bylaw adopted by the shareholders provides otherwise as to all or some portion of the corporation's Bylaws, the shareholders may amend, repeal, or adopt these Bylaws even though these Bylaws may also be amended, repealed, or adopted by the Board of Directors.

**CERTIFICATE OF SECRETARY**

The undersigned does hereby certify that (i) he is the duly elected and qualified Secretary of Mexican Restaurants, Inc., a Texas corporation (the "Company"), and (ii) the foregoing is a true and correct copy of the Bylaws of the Company reviewed and adopted by the Board of Directors of the Company on May 27, 2009.

/s/ Andrew J. Dennard  
Andrew J. Dennard, Secretary

Dated: May 27, 2009



**CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Curt Glowacki, President and Chief Executive Officer of Mexican Restaurants, Inc., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Mexican Restaurants, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the consolidated financial statements, and other financial information included in this report, fairly present in all material respects the consolidated financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

August 12, 2009

/s/ Curt Glowacki  
By: Curt Glowacki,  
President and Chief Executive Officer



**CERTIFICATION PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Andrew J. Dennard, Executive Vice President and Chief Financial Officer of Mexican Restaurants, Inc., certify that:

1. I have reviewed this quarterly report on Form 10-Q of Mexican Restaurants, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the consolidated financial statements, and other financial information included in this report, fairly present in all material respects the consolidated financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's board of directors (or persons performing the equivalent functions):
  - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

August 12, 2009

*/s/ Andrew J. Dennard*  
By: Andrew J. Dennard,  
Executive Vice President and Chief Financial Officer





**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Mexican Restaurants, Inc. (the "Company") on Form 10-Q for the period ending June 28, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Curt Glowacki, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

*/s/ Curt Glowacki*

Curt Glowacki  
President and Chief Executive Officer  
August 12, 2009

The foregoing certification is being forwarded solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code) and should not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.



**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Mexican Restaurants, Inc. (the Company) on Form 10-Q for the period ending June 28, 2009 as filed with the Securities and Exchange Commission on the date hereof (the Report), I, Andrew J. Dennard, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

*/s/ Andrew J. Dennard*

Andrew J. Dennard  
Executive Vice President and Chief Financial Officer  
August 12, 2009

The foregoing certification is being forwarded solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code) and should not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

