MEXICAN RESTAURANTS INC

FORM 8-K (Current report filing)

Filed 12/29/06 for the Period Ending 12/26/06

Address 1135 EDGEBROOK

HOUSTON, TX 77034

Telephone 7139437574

CIK 0001009244

Symbol CASA

SIC Code 5812 - Eating Places

Industry Restaurants

Sector Services

Fiscal Year 12/28

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (date of earliest event reported): December 26, 2006



MEXICAN RESTAURANTS, INC.

(Exact name of registrant as specified in its charter)

Texas (State or other jurisdiction of incorporation) 000-28234 (Commission File Number) 76-0493269 (IRS Employer Identification No.)

1135 EDGEBROOK HOUSTON, TEXAS (Address of Principal Executive Offices) 77034-1899 (Zip Code)

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

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant number under any of the following provisions (*see* General Instruction A.2. below):

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On December 15, 2006, Lou Neeb was named the new Chief Executive Officer of Mexican Restaurants, Inc., replacing Curt Glowacki, who resigned as Chief Executive Officer and President of the Company. As previously disclosed, Mr. Glowacki's resignation was not the result of any disagreement between Mr. Glowacki and the Company regarding any matter relating to the Company's operations, policies or practices.

Upon taking the CEO position, Mr. Neeb, previously an independent director and a member of the Company's Audit Committee, stepped down as a member of the Audit Committee in order to comply with Nasdaq's audit committee requirements as set forth in Nasdaq Marketplace Rule 4350, leaving two directors on that committee. The Company notified the Nasdaq Staff of this event by letter of December 21, 2006. The Company was then formally notified by Nasdaq by a Nasdaq Staff Deficiency Letter on December 26, 2006 of Nasdaq's receipt of the Company's letter and of the Company's failure to keep in compliance with Nasdaq's requirement for listed issuers to have an audit committee comprised of at least three directors, all of whom must be independent within the meaning of the Nasdaq Marketplace Rules as set forth in Marketplace Rule 4350. A copy of the December 26, 2006 letter from the Nasdaq Staff is attached hereto as Exhibit 99.1. Consistent with Nasdaq Marketplace Rule 4350(d)(4), in its letter Nasdaq provided the Company with a cure period in order to regain compliance until the earlier of the Company's next annual shareholders' meeting or December 15, 2007. A special committee of the Company's Board of Directors to conduct a search for a new Chief Executive Officer, and an independent director if an existing independent director is unable to serve on the Audit Committee, is in the process of being selected by the Board.

A copy of the Company's press release with respect to this matter is attached hereto as Exhibit 99.2.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits

Exhibit <u>Number</u>	<u>Description</u>
99.1	Letter from Nasdaq Stock Market to Mexican Restaurants, Inc. dated December 26, 2006.
99.2	Mexican Restaurants, Inc. press release dated December 29, 2006.

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 hereunto duly authorized.

Date: Dec	mber 29,	2006
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MEXICAN RESTAURANTS, INC.

By: /s/ ANDREW J. DENNARD

Andrew J. Dennard

Exec. Vice President,

Chief

Financial Officer,

Treasurer and

Corporate

Secretary

INDEX TO EXHIBITS

Exhibit	
Number	<u>Description</u>
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99.2	Mexican Restaurants Inc. press release dated December 29, 2006

THE NASDAQ STOCK MARKET 9600 BLACKWELL ROAD ROCKVILLE, MD 20850

By Electronic Delivery to: gbarringer@mexicanrestaurantsinc.com

December 26, 2006

Mr. Andrew J. Dennard Executive Vice President and Chief Financial Officer Mexican Restaurants, Inc. 1135 Edgebrook Houston, TX 77034

Re: Mexican Restaurants, Inc. (the "Company")

Nasdaq Symbol: CASA

Dear Mr. Dennard:

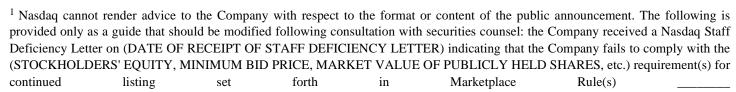
On December 21, 2006, the Company notified Staff that due to the appointment of Mr. Lou Neeb as interim Chief Executive Officer the Company, effective December 15, 2006, the Company no longer complies with Nasdaq's audit committee requirements as set forth in Marketplace Rule 4350.

However, consistent with Marketplace Rule 4350(d)(4), Nasdaq will provide the Company a cure period in order to regain compliance as follows:

- until the earlier of the Company's next annual shareholders' meeting or December 15, 2007; or
- if the next annual shareholders' meeting is held before June 14, 2007, then the Company must evidence compliance no later than June 14, 2007.

The Company must submit to Nasdaq documentation, including biographies of any new directors, evidencing compliance with the rules no later than this date. In the event the Company does not regain compliance by this date, Nasdaq rules require Staff to provide written notification to the Company that its securities will be delisted. At that time, the Company may appeal the delisting determination to a Listing Qualifications Panel.

Marketplace Rule 4803(a) requires that the Company, as promptly as possible but no later than four business days from the receipt of this letter, make a public announcement through the news media which discloses receipt of this letter and the Nasdaq rules upon which it is based. ¹ The Company must provide



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Mr. Andrew J. Dennard December 26, 2006 Page 2

a copy of this announcement to Nasdaq's MarketWatch Department, the Listing Qualifications Department, and the Listing Qualifications Hearings Department (the "Hearings Department") at least 10 minutes prior to its public dissemination. ² For your convenience, we have enclosed a list of news services. ³

In the event the Company does not make the required public announcement, trading in its securities will be halted.

Please be advised that Marketplace Rule 4803(a) does not relieve the Company of its disclosure obligation under the federal securities laws. In that regard, Item 3.01 of Form 8-K requires disclosure of the receipt of this notification within four business days. ⁴ Accordingly, the Company should consult with counsel regarding its disclosure and other obligations mandated by law.

In addition, an indicator will be broadcast over Nasdaq's market data dissemination network noting the Company's non-compliance. The indicator will be displayed with quotation information related to the Company's securities on Nasdaq.com, NasdaqTrader.com and by other third-party providers of market data information. Also, a list of all non-compliant Nasdaq companies and the reason(s) for such non-compliance is posted on our website at www.nasdaq.com. The Company will be included in this list commencing five business days from the date of this letter.

If you have any questions, please contact Jay Miller, Lead Analyst, at (301) 978-8042.

Sincerely,

/s/ Randy Genau

Randy Genau Associate Director Nasdaq Listing Qualifications

² This notice should be provided to the attention of Nasdaq's MarketWatch Department (telephone: 301/978-8500; facsimile: 301/978-8510, and to Nasdaq's Listing Qualifications Department (facsimile: 301/978-4028) and the Hearings Department (telephone: 301/978-8071; facsimile: 301/978-8080), 9600 Blackwell Road, Rockville, Maryland 20850.

³ The Company must ensure that the full text of the required announcement is disseminated publicly. The Company has not satisfied this requirement if the announcement is published as a headline only or if the news service determines not to publish the full text of the story.

⁴ See, SEC Release No. 34-49424.

DIRECTORY OF NEWS SERVICES

News Media Outlets

Bloomberg Business News	MarketWire	PrimeNewswire
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Newsroom	5757 West Century Boulevard.	(A NASDAQ Company)
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39th Floor San Francisco, CA 94104 Telephone: 415.986.4422 Fax: 415.788.5335	38th Floor New York, NY 10036 Telephone: 800.832.5522	New York, NY 10036 Telephone: 646.223.6000
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39th Floor San Francisco, CA 94104 Telephone: 415.986.4422 Fax: 415.788.5335 Dow Jones News Wire Harborside Financial Center 600 Plaza Two	38th Floor New York, NY 10036 Telephone: 800.832.5522	New York, NY 10036 Telephone: 646.223.6000



FOR IMMEDIATE RELEASE

Contact: Mexican Restaurants, Inc. Andrew J. Dennard (713) 943-7574

Mexican Restaurants, Inc. Receives Nasdaq Staff Letter Relating to Audit Committee Requirements

Houston, Texas (December 29, 2006) On December 21, 2006 Mexican Restaurants, Inc. (Nasdaq: CASA) notified Nasdaq that Lou Neeb stepped down from the Audit Committee upon taking the Company's Chief Executive Officer position, leaving two board members on that committee. The Company received a Nasdaq Staff Deficiency Letter on December 26, 2006 acknowledging the Company's notification and stating that the Company no longer complies with Nasdaq's audit committee requirements as set forth in Marketplace Rule 4350 requiring the Company's Audit Committee to be comprised of at least three members, each of whom must be independent as determined under Nasdaq rules. A special committee of the Company's Board of Directors has been formed to conduct a search for a new Chief Executive Officer and the Company has hired a search firm to assist in that effort. The Company's goal is to find a new Chief Executive Officer and either appoint an existing independent director to the Audit Committee or find a new outside director who will sit on the Audit Committee before the Company's annual shareholder meeting in May, 2007.

Mexican Restaurants, Inc. operates and franchises 81 Mexican restaurants. The current system includes 62 Company-operated restaurants, 18 franchisee operated restaurants and one licensed restaurant.

Special Note Regarding Forward-Looking Statements

This press release 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 which 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: 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; national, regional or local economic and real estate conditions; demographic trends; inclement weather; traffic patterns; the type, number and location of competing restaurants; inflation; increased food, labor and benefit costs; 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 the Company in this release and in the Company's most recently filed Annual Report and Form 10-K that attempt to advise interested parties of the risks and factors that may affect the Company's business.