

AFC ENTERPRISES INC

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 09/01/06

Address	5555 GLENRIDGE CONNECTOR, NE, SUITE 300 ATLANTA, GA 30342
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Industry	Restaurants
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As filed with the Securities and Exchange Commission on September 1, 2006

REGISTRATION NO. 333-_____

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

AFC ENTERPRISES, INC.

(Exact Name of Registrant as Specified in Its Charter)

Minnesota
(State or Other Jurisdiction of Incorporation or Organization)

58-2016606
(I.R.S. Employer Identification Number)

**5555 Glenridge Connector, N.E., Suite 300
Atlanta, Georgia 30328**
(Address, Including Zip Code, of Registrant's Principal Executive Offices)

**AFC ENTERPRISES, INC.
2006 INCENTIVE STOCK PLAN**
(Full Title of the Plan)

**H. Melville Hope, III
Chief Financial Officer
AFC Enterprises, Inc.
5555 Glenridge Connector, N.E., Suite 300
Atlanta, Georgia 30328
(404) 459-4450**
(Name, Address, Including Zip Code, and Telephone Number,
Including Area Code, of Agent For Service)

COPIES TO:

**Harold M. Cohen
Senior Vice President, Legal Affairs
General Counsel and Secretary
AFC Enterprises, Inc.
5555 Glenridge Connector, N.E., Suite 300
Atlanta, Georgia 30328
(404) 459-4450**

**John D. Wilson
King & Spalding LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309-3521
(404) 572-4600**

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share (1)	Proposed Maximum Aggregate Offering Price (1)	Amount of Registration Fee
Common Stock, \$.01 par value per share	3,298,985	\$14.81	\$48,857,968	\$5,228

(1) Estimated solely for purposes of calculating the registration fee in accordance with Rule 457(c) and Rule 457(h), based upon the average of the high and low reported sales price of the Registrant's Common Stock on the Nasdaq National Market on August 29, 2006.



PART I
INFORMATION REQUIRED IN SECTION 10(a) PROSPECTUS

The documents containing information specified in Part I of Form S-8 will be sent or given to employees as specified in Rule 428(b)(1) of the Securities Act of 1933, as amended (the "Securities Act"). Those documents and the documents incorporated by reference into this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirement of Section 10(a) of the Securities Act.

PART II

This Registration Statement on Form S-8 relates to 3,298,985 shares of common stock, par value \$.01 per share (the "Common Stock"), of AFC Enterprises, Inc. (the "Company"), reserved for issuance pursuant to the AFC Enterprises, Inc. 2006 Incentive Stock Plan (the "Plan").

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Certain Documents by Reference .

The following documents have been previously filed by the Company with the Securities and Exchange Commission (the "Commission") and are incorporated by reference into this Registration Statement as of their respective dates:

- (a) The Company's Annual Report on Form 10-K for the year ended December 25, 2005;
- (b) The Company's Quarterly Reports on Form 10-Q for the quarters ended April 16, 2006 and July 9, 2006;
- (c) The Company's Current Reports on Form 8-K filed on February 23, 2006, March 14, 2006, March 16, 2006, March 20, 2006, May 3, 2006, June 1, 2006, the portion of the Form 8-K filed on June 29, 2006 under the heading "Item 8.01", August 8, 2006, August 16, 2006; and
- (g) The description of the Company's Common Stock contained in the Company's Registration Statement on Form 8-A dated February 21, 2001, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Company subsequent to the date of this Registration Statement pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents.

Any statement contained in any document incorporated by reference or deemed to be incorporated by reference into this Registration Statement shall be deemed to be modified or superseded for purposes thereof to the extent that a statement contained therein or in any other subsequently filed document that is also incorporated or deemed to be incorporated therein by reference modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed to constitute a part of this Registration Statement.

Item 4. Description of Securities .

Inapplicable.

Item 5. Interests of Named Experts and Counsel .

The Company has agreed to indemnify and hold KPMG LLP harmless against and from any and all legal costs and expenses incurred by KPMG in successful defense of any legal action or proceeding that arises as a result of KPMG's consent to the inclusion of its audit report on our past financial statements included in the Registration Statement.

Item 6. Indemnification of Directors and Officers .

The Company's articles of incorporation provide that each of its directors shall not be personally liable to it or its shareholders for monetary damages for any breach of fiduciary duty as a director, except for liability: (i) for any breach of the director's duty of loyalty to the Company or its shareholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) under sections 302A.559 or 80A.23 of the Minnesota Business Corporation Act; (iv) for any transaction from which the director derived an improper personal benefit; or (v) for any act or omission occurring prior to the date when the articles of incorporation became effective.

The Company's articles of incorporation also provide that if the Minnesota Business Corporation Act is amended to authorize any further limitation of the liability of a director, then the liability of a director is eliminated or limited to the fullest extent permitted by the amended act. Further, the Company's bylaws provide that it shall indemnify its directors and officers to the maximum extent permitted by the Minnesota Business Corporation Act, Section 302A.521, as amended.

Section 302A.521 of the Minnesota Business Corporation Act requires the Company to indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person with respect to the Company (including service with respect to another organization or employee benefit plan at the request of the Company) against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements, if, with respect to the acts or omissions of the person complained of in the proceeding, such person (i) has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding with respect to the same acts or omissions; (ii) acted in good faith; (iii) received no improper personal benefit and the applicable statutory provisions have been satisfied in the case of any conflict of interest affecting a director; (iv) in

the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (v) in the case of acts or omissions occurring in the person's performance in the official capacity of director or, for a person not a director, in the official capacity of officer, committee member or employee, reasonably believed that the conduct was in the best interests of the Company, or in the case of service with another organization at the request of the Company, reasonably believed that the conduct was not opposed to the best interests of the Company. In addition, Section 302A.521, subdivision 3 requires payment by the Company, upon written request, of reasonable expenses in advance of final disposition in certain instances. A decision as to required indemnification and payment of expenses by the Company is made by a majority of the disinterested directors present at a board meeting at which a disinterested quorum is present, or by a majority of a designated committee of disinterested directors, by special legal counsel selected by means specified in the statute, by the disinterested shareholders, by a court or, in certain circumstances, by an annually appointed committee of the board.

The Company has also entered into indemnification agreements with each of its directors and officers. The indemnification agreements may require it, among other things, to indemnify its directors and officers against certain liabilities that may arise by reason of their status or service as directors or officers (other than liabilities arising from willful misconduct of a culpable nature), to advance their expenses incurred as a result of any proceeding against them as to which they could be indemnified, and to obtain directors' and officers' insurance if available on reasonable terms.

The Company carries directors' and officers' liability insurance covering its directors and officers.

Insofar as indemnification for liabilities under the Securities Act may be permitted for directors, officers or persons controlling the Company pursuant to the foregoing provisions, in the opinion of the Commission, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 7. Exemptions from Registration Claimed.

Inapplicable.

Item 8. Exhibits .

<u>Exhibit</u>	<u>Description</u>
4.1	Form of Common Stock Certificate (filed as Exhibit 4.9 to the Company's Registration Statement on Form S-1 (Registration No. 333-52608) on December 22, 2000 and incorporated by reference herein).
4.2	Article 3 of the Company's Articles of Incorporation, as amended (filed as Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q on August 14, 2002 and incorporated by reference).
4.3	Articles II, V, VI and X of the Company's Amended and Restated Bylaws (filed as Exhibit 3.2 to the Company's Annual Report on Form 10-K for the fiscal year ended December 26, 2004 on April 25, 2005 and incorporated by reference).
5.1	Opinion of Krass Monroe, P.A.
23.1	Consent of Krass Monroe, P.A. (included in Exhibit 5.1).
23.2	Consent of Grant Thornton LLP
23.3	Consent of KPMG LLP
24.1	Powers of Attorney (included on signature page).
99.1	AFC Enterprises, Inc. 2006 Incentive Stock Plan (incorporated by reference to Exhibit A to the Company's Definitive Proxy Statement filed on April 17, 2006).

Item 9. Undertakings .

(a) The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the change in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective Registration Statement;
 - (iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

Provided however, that:

Paragraphs (a)(1)(i) and (a)(1)(ii) of this Section do not apply if the Registration Statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Registration Statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
 - (i) If the Registrant is relying on Rule 430B:
 - (A) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the Registration Statement as of the date the filed prospectus was deemed part of and included in the Registration Statement; and
 - (B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a Registration Statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the Registration Statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the Registration Statement relating to the securities in the Registration Statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. Provided, however, that no statement made in a Registration Statement or prospectus that is part of the Registration Statement or made in a document incorporated or deemed incorporated by reference into the Registration Statement or prospectus that is part of the Registration Statement will, as to a purchaser with a time of contract of sale prior to

such effective date, supersede or modify any statement that was made in the Registration Statement or prospectus that was part of the Registration Statement or made in any such document immediately prior to such effective date; or

- (ii) If the Registrant is subject to Rule 430C, each prospectus filed pursuant to Rule 424(b) as part of a Registration Statement relating to an offering, other than Registration Statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the Registration Statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a Registration Statement or prospectus that is part of the Registration Statement or made in a document incorporated or deemed incorporated by reference into the Registration Statement or prospectus that is part of the Registration Statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the Registration Statement or prospectus that was part of the Registration Statement or made in any such document immediately prior to such date of first use.
- (6) That, for the purpose of determining liability of the Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this Registration Statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424;
- (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;
- (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

- (iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.
- (b) The undersigned Registrant hereby undertakes that, for the purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Atlanta, State of Georgia on this 1st day of September 2006.

AFC ENTERPRISES, INC.

By: /s/ Kenneth L. Keymer
Kenneth L. Keymer
Chief Executive Officer

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Kenneth L. Keymer and H. Melville Hope, III and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for such persons and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this Registration Statement, and to file the same with all Exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and to perform each and every act and thing requisite or necessary to be done in and about the premises, as fully and to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, and any of them, or their substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signatures	Title	Date
<u>/s/ Kenneth L. Keymer</u> Kenneth L. Keymer	Chief Executive Officer (Principal Executive Officer)	September 1, 2006
<u>/s/ H. Melville Hope</u> H. Melville Hope	Chief Financial Officer (Principal Financial and Accounting Officer)	September 1, 2006
<u>/s/ Frank J. Belatti</u> Frank J. Belatti	Director, Chairman of the Board	September 1, 2006
<u>/s/ Victor Arias, Jr.</u> Victor Arias, Jr.	Director	September 1, 2006
<u>/s/ Carolyn H. Byrd</u> Carolyn H. Byrd	Director	September 1, 2006
<u>/s/ R. William Ide, III</u> R. William Ide, III	Director	September 1, 2006
<u>/s/ Kelvin J. Pennington</u> Kelvin J. Pennington	Director	September 1, 2006
<u>/s/ John M. Roth</u> John M. Roth	Director	September 1, 2006

/s/ John F. Hoffner
John F. Hoffner

Director

September 1, 2006

EXHIBIT INDEX

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September 1, 2006

AFC Enterprises, Inc.
Six Concourse Parkway
Suite 1700
Atlanta, Georgia 30328

Re: AFC Enterprises, Inc.
Our File No.12452-2

Ladies and Gentlemen:

We have acted as special Minnesota counsel to AFC Enterprises, Inc., a Minnesota corporation (the "Company") in connection with the registration under the Securities Act of 1933, as amended, on a registration statement on Form S-8 (the "Registration Statement") of 3,298,985 shares of the Company's common stock, \$0.01 par value per share (the "Shares"), which are to be offered and sold under the AFC Enterprises, Inc. 2006 Incentive Stock Plan (the "Plan"). This opinion is being delivered to you at your request.

In connection with this opinion, we have (i) investigated such questions of law, (ii) examined originals or certified, conformed or reproduction copies of such agreements, instruments, documents and records of the Company, such certificates of public officials and such other documents, including those specifically listed below, and (iii) received such information from officers and representatives of the Company, as we have deemed necessary or appropriate for the purposes of this opinion. With your permission, all assumptions and statements of reliance herein have been made without any independent investigation or verification on our part except to the extent otherwise expressly stated, and we express no opinion with respect to the subject matter or accuracy of such assumptions or items relied upon. With your permission, as to any fact material to the opinions expressed herein, we have relied, to the extent that we deemed such reliance proper, upon resolutions, certificates and representations of officers of the Company with respect to the accuracy of any such factual matter regarding or related to the Company.

1. Organizational Documents Reviewed. In our capacity as special Minnesota counsel to the Company and for purposes of this opinion, we examined the following documents:

- (a) A certified copy of the Company's Articles of Incorporation, as amended, certified by the Secretary of State for the State of Minnesota on March 7, 2006; and
- (b) A copy of the Company's Bylaws; and
- (c) A copy of the Plan; and
- (d) A Secretary's Certificate executed by Company's Secretary and Resolutions of the Company's Board of Directors authorizing the filing of the Registration Statement, which are attached to the Secretary's Certificate.

This opinion letter is given, and all statements herein are made, in the context of our review of the above organizational documents.

2. Assumptions Regarding Opinion. In rendering the opinion set forth herein we have with your permission assumed without any inquiry, verification or opinion, and relied upon the following:

(a) The genuineness of the signatures of all persons who have signed the Registration Statement, and all instruments, documents, certificates, applications, consents, filings and/or agreements related to the Registration Statement;

(b) All documents, certificates and instruments submitted to us as originals are authentic and complete; all documents, certificates and instruments submitted to us as certified, conformed or photostatic copies are complete, true and correct copies of the originals thereof, including, but not limited to, the Plan;

(c) The accuracy and completeness of all documents and records made available to us and that all statements of fact, representations and warranties contained in the Registration Statement (including, without limitation, all statements of fact set forth in each of the recitals, if any, to the Registration Statement), are true and correct;

(d) The legal competency of all natural persons who have signed the Registration Statement;

(e) That all decisional authorities, statutes, rules and regulations comprising the applicable law for which we are assuming responsibility are published or otherwise generally accessible, in each case in a manner generally available to lawyers practicing in the State of Minnesota;

This opinion letter is given, and all statements herein are made, in the context of the above assumptions.

3. Opinion Regarding Transaction. Based upon and subject to the foregoing, and subject further to the qualifications and any other exceptions expressed herein, we are of the opinion as of this date that the Shares have been duly authorized and, upon issuance, delivery and payment therefor in accordance with the terms of the Plan, will be validly issued, fully paid and nonassessable.

4. Qualifications to Opinion. The opinion contained herein is qualified in its entirety and subject to the following paragraphs, qualifications and other matters set forth below:

(a) We are admitted to practice in the State of Minnesota, and we express no opinion as to the laws of any jurisdiction, other than the State of Minnesota and the federal laws of the United States of America. To the extent laws of any State other than the State of Minnesota govern the Company or the Registration Statement, we assume such laws are identical to the laws of the State of Minnesota without any investigation as to whether any difference exists between the laws of such forum and the State of Minnesota.

(b) Our opinion is limited to the specific issues addressed and is limited in all respects to laws and facts existing on the date of this opinion.

8. Matters As To Which No Opinion Is Expressed. Without limiting the generality of the assumptions and qualifications to our opinion herein set forth, we express no opinion as to any of the matters

set forth below, and as to each of which, our opinion herein set forth is qualified further in its entirety:

(a) We express no opinion with respect to the validity, binding effect, or enforceability of any provision of the Registration Statement; and

(b) We express no opinion with respect to any applicable federal or state securities laws (or "Blue Sky" laws) other than the Blue Sky laws of the State of Minnesota.

Our opinion expressed in this letter represents our opinion as to how an issue would be resolved if considered by the Supreme Court of the State of Minnesota. The manner in which any particular issue would be treated in any actual court case would depend in part on the facts and circumstances particular to the case, and this letter is not intended to guarantee the outcome of any legal dispute that may arise.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement, and to the reference of our firm under the heading "Legal Matters" in the Registration Statement.

This opinion is rendered to you for your benefit in connection with the above transaction and may not be relied upon by any other person or for any other purpose without our prior written consent. This opinion letter supersedes any prior opinion or opinion letter given by this firm or any of its lawyers that is related in any manner to any transaction contemplated by or under or related to the Registration Statement, and by your acceptance of this opinion letter you agree that such prior opinions or opinion letters are and shall be null and void in their entirety. No person may be subrogated to the rights of the addressee for any purpose without our prior written consent. This opinion is rendered as of the date hereof and we hereby disclaim any obligation to advise you or any other party expressly entitled to rely hereon of any change in any matter set forth herein.

Very truly yours,

/s/ KRASS MONROE, P.A.

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated March 8, 2006, accompanying the financial statements and on internal control over financial reporting included in the annual report of AFC Enterprises, Inc. on Form 10-K for the year ended December 25, 2005 which are incorporated by reference in this Registration Statement. We consent to the use of the aforementioned reports in the Registration Statement.

/s/ Grant Thornton LLP

Atlanta, GA

September 1, 2006

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors
AFC Enterprises, Inc.:

We consent to the incorporation by reference in the registration statement on Form S-8 of AFC Enterprises, Inc. (the "Company") of our report dated March 25, 2005, with respect to the consolidated balance sheet of AFC Enterprises, Inc. and subsidiaries as of December 26, 2004, and the related consolidated statements of operations, changes in shareholders' equity, and cash flows for each of the years in the two-year period ended December 26, 2004, which report appears in the December 25, 2005 annual report on Form 10-K of AFC Enterprises, Inc.

Our report dated March 25, 2005 contains an explanatory paragraph that states that effective December 29, 2003 the Company adopted the provisions of Financial Accounting Standards Board Interpretation No. 46R, "Consolidation of Variable Interest Entities."

/s/ KPMG LLP

Atlanta, Georgia
September 1, 2006