UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO

In re	)	
	)	Bankruptcy Case No.: 05-45287 SBB
TCR of Denver, LLC	)	
	)	Chapter 11
	)	

BRIEF IN SUPPORT OF
MOTION FOR VOLUNTARY DISMISSAL OF CHAPTER 11 CASE

Debtor TCR of Denver, LLC ("TCR") submits the following brief in response to the Court's December 30, 2005 order:

My learned colleague's brief was truly sublime,
Her cogent reasoning mixed with delectable rhyme.
In this way the gauntlet has been thrown down
And to respond in kind I now feel bound.

At the risk of sounding flippant or breezy,
The answer to the court's question is really quite easy.
Section 102 says the word "includes"
A very specific meaning exudes

No limit is to be inferred,
Whenever the Code uses this word.
Thus, when the word is used before a list,
the listed items give only the gist.

The causes listed in (b)(4) are therefore not exclusive.
And the exact meaning of "cause" remains rather illusive.
But the statutory meaning no one tramples
By saying the (b)(4) list gives only examples.

Dear reader with my reasoning I hope you keep pace
As I explain why this is important to the resolution of our case.
No change in the statutory meaning was planned
When the scribes morphed the "or" into an "and."

Whether disjunctive **or** conjunctive the text,
There is no reason for the reader to be vexed.
Either way, one is compelled to admit,
The result does not change, not even a whit.

When “or” was used the (b)(4) list was partial.
There were always other causes one could marshal
In support of a motion to dismiss,
A case that was truly remiss.

And now that “and” is in place,
The same conclusion we must face.
It is neither a triumph nor great feat
To conclude that the list is still incomplete.

There is thus no reason to suggest
The construction of the statute that is best
Requires one to show the presence of each **example**,
When – listed or not – only one cause is ample.

Finally, I am sure the Court will be elated,
to learn that one other reason must be stated.

A search of the opinions of the Court of Appeals,
A steadfast rule of construction reveals.
The higher court will not allow to be circumvented
the rule that a statute may not be construed in a way that is demented.

If all of the examples of cause must be shown,
Dismissal would be available only when seed has been sown,
And an order for domestic support
Has been entered by a competent court.

Surely Congress never had the intent
No matter how far the rules were bent,
To say to this Court you may never erase
Even the very worst corporate case.

For that matter it would be absurd
To say Congress intended to be heard
To prevent even natural persons never married
From having relief by dismissal un-harried.

And surely it must give us more than a moment’s pause
To suggest that even if 15 of the 16 examples of cause
Could be shown in a particular case to exist,
The Court may not grant a motion to dismiss.

At end of the day and in the final analysis,
The Court is not subject to such paralysis.

If a motion shows any cause of dismissal is there,
The Court from its docket the case may pare.

Respectfully submitted this 9th day of January, 2006.

/S/ Barry K. Arrington
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CERTIFICATE OF SERVICE

The undersigned certifies that on January 9, 2006 he emailed the foregoing to:

Cynthia T. Kennedy, Esq.
and
Alison Goldenbert, U.S. Trustee's Office