

STATE OF INDIANA ) IN THE SUPERIOR COURT, PROBATE  
)SS:  
COUNTY OF MARION ) TRUST DOCKET T-62, Page 11

IN THE MATTER OF THE )  
PUBLIC BENEVOLENT TRUST )  
U/W MARY POWELL CRUME, )  
DECEASED; INDIANAPOLIS )  
HUMANE SOCIETY, TRUSTEE )

**MOTION FOR LEAVE TO PARTICIPATE AS AMICUS CURIAE**

Come now, Home for Friendless Animals, Inc., Spay-Neuter Services of Indiana, Inc., and Southside Animal Shelter, Inc., by their counsel, and move this Court for permission to participate as amicus curiae in the matter involving the Trustee’s Petition to Pledge Public Charitable Assets, and in support thereof, states:

1. Petitioners are non-profit animal welfare service organizations serving the Central Indiana Community, including Indianapolis.
2. Petitioners are aligned with prior parties to this matter, namely, themselves, Move To Act, Alliance for Responsible Pet Ownership, Inc., and Norma Jean Balcom.
3. The three petitioners previously joined in Move to Act’s Objection to Trustee’s Twenty-Second Statement of Accounts in this matter and filed their Complaint for Breach of Fiduciary Duty.
4. This Court dismissed the petitioners for lack of standing on August 31, 2004.
5. The petitioners have filed their Notice of Appeal on the specific issue of legal standing; however, expedited appeal of the matter was denied by the Indiana Court of Appeals on September 16, 2004.
6. No order from the Indiana Court of Appeals or the Indiana Supreme Court has been issued that would vacate this Court’s Order Dismissing petitioners; therefore, petitioners are currently non-parties to this action.
7. The Humane Society of Indianapolis, Inc., as trustee of the Crume Trust, has failed or refused to submit financial information to this Court to support its Petition to Pledge; therefore, this Court has had no opportunity to give careful detailed review of the Society’s financial projections.
8. First Trust, as court-appointed “temporary limited consultant,” submitted its Report to this Court on September 2, 2004. Its review and conclusions were based on limited financial information prepared by the self-interested trustee/ borrower and only selected pleadings in this matter that were favorable to the trustee/borrower.
9. Neither the Attorney General’s Objection to Collateralization filed July 1, 2004 nor the adverse pleadings of then-existing parties to the matter were provided to the “independent” consultant.

10. Neither the Attorney General nor the trustee have submitted in their pleadings or raised in oral discussion legal support or analysis on the issue as to whether the current income beneficiary of a public charitable trust can offer the principal of such trust as collateral for an otherwise unsecured loan to the beneficiary.
11. While the Attorney General filed its Objection to Collateralization on July 1, 2004, the Attorney General has indicated the possibility that it will retreat from that position based on the finding of the “independent” consultant.
12. The Attorney General’s resources are limited and it may not have the appropriate staff and budget for professional review of the financial material submitted to it by the Humane Society as well as the report of the independent consultant.
13. The petitioners seek to submit legal analysis of the sole legal issue presented, as well as discussion of the financial report of First Trust, so that the Court and the Attorney General may be better prepared for the hearing scheduled for Thursday, October 14, 2004 involving the Humane Society’s Petition to Pledge.
14. In preparing their 7-page brief, Petitioners have reviewed only recent financial information that is available to the general public – that is, IRS Forms 990 and material that the Humane Society has submitted to the public or to the Attorney General – but which public financial information has not yet been presented to this Court.
15. Petitioners have limited their 7-page brief to the merits of the Humane Society’s Petition to Pledge and have not discussed any issues that the petitioners might seek on appeal if such appeal were granted.

WHEREFORE, Petitioners pray for an Order by this Court permitting Petitioners to participate as amicus curiae by submitting a 7-page brief with legal analysis of the specific issue, with exhibits of financial information that otherwise have not been presented to this Court and which would assist this Court in reviewing the issue to be presented at hearing October 14, 2004, and for all other relief just and proper in the premises.

Respectfully submitted,

Veronica L. Jarnagin

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 12<sup>th</sup> day of October, 2004, a true and complete copy of the foregoing was made by personal delivery to the following:

Mr. Peter Donahoe (#4794-49)  
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**ORDER**

This matter having come before the Court on petitioners, now non-parties, Motion for Leave to Participate as Amicus Curiae. And the Court being duly advised now finds that the same should be **GRANTED**. Petitioners' amicus brief and exhibits and supporting law are hereby accepted. **IT IS SO ORDERED**.

Dated: \_\_\_\_\_

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Hon. Charles J. Dieter, Marion Probate Court

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