

Crowdfunding: Are Those in Need Really Being Served?

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Dozens of innocent concert attendees were viciously gunned down in Las Vegas on October 6, 2017. In the aftermath of this senseless massacre, many individuals attempted to support the families of the victims by offering financial aid through the popular donation-based crowdfunding site GoFundMe.¹ Unfortunately, some of these individuals soon learned that fraudsters show no remorse or common decency even amid a tragedy. Not long after the shooting, hundreds of fake support pages appeared on GoFundMe. The intention was to prey on the compassion of others. The California state attorney-general issued a consumer alert to warn well-meaning donors. The alert stated that “these unscrupulous individuals set up fake charities purporting to help the victims of the tragedy only to line their own pockets” (Kopetman, 2017, para. 8).

Introduction to Crowdfunding

The above example could make someone question humanity. In the wake of a disaster, fraudsters acted quickly to take advantage of those who were trying to help the victims. Sadly, this is a common practice, as fraudsters look for such opportunities. Trying to provide immediate support to those in need, many assume that their donations are going to the advertised parties: the victims.

However, there are countless cases in which this has not occurred. For example, a father without custodial rights set up a GiveForward campaign for his eight-year-old who allegedly had a terminal heart problem. After \$11,000 had been contributed, the campaign was flagged as illegitimate. Despite the mother’s attempt at litigation, GiveForward was found not responsible (Goldman, 2015). Such cases often make the news. Fortunately, many of these fraudulent pages are shut down; however, this does not always occur before the donations are made. The pages for high-profile events (e.g., the Parkland, Florida high school shooting) constitute only a portion of the false campaigns that plague online crowdfunding sites, such as GoFundMe, through which donations are solicited.

Crowdfunding has been defined as “the practice of obtaining needed funding by soliciting contributions from a large number of people especially from the online community” (merriam-webster.com, 2018). Although this source of funding is relatively new, it has grown rapidly and is now a multibillion-dollar industry. In 2017, crowdfunding was the source of \$17.2 billion in funding in North America (Crowdfunding Statistics, 2018). The concept has evolved and now includes donation-based crowdfunding, which is designed to facilitate the transfer of funds for charitable causes. These causes can be on behalf of either a group or an individual in need. The terms of support can vary greatly. A closer examination of donation-based crowdfunding indicates that \$5.5 billion was raised worldwide in 2017 (Crowdfunding Statistics, 2018). A 2015 Pew Research Center survey found that more than one in five Americans had donated to a crowdfunding campaign. The average donation was eleven dollars to fifty dollars (Smith, 2016). Unfortunately, while crowdfunding has provided a new avenue for individuals to raise funds that would otherwise be nearly impossible to acquire, it has facilitated the exploitation of well-meaning individuals and the theft of their resources by fraudsters.

GoFundMe and the Mechanics of Fraud

¹ Note: This paper focuses on GoFundMe only. It was chosen because of its size and the authors’ belief that other sites are likely to have similar or even worse problems. Multiple attempts were made to get information from GoFundMe employees; however, no response was received. The authors relied on the GoFundMe website for the information and the interpretation of the information. The information presented extends to June 2018. Note, GoFundMe has been continually amending its policies. However, the key issues noted in this article still exist, and the solutions provided are still relevant.

Despite the existence of many donation-based crowdfunding sites, such as Fundly, GiveForward, and Deposit a Gift, the most popular by number of campaigns and dollar amount of donations is GoFundMe. As the leader in donation-based crowdfunding, GoFundMe has been used by fraudsters for illegal and deceptive activities. In an attempt to prevent such practices, GoFundMe has established an online form for individuals to report suspected fraudulent campaigns. The site defines reportable campaigns as those in which the campaign creator fails to deliver the funds to the noted beneficiary, deliberately deceives donors through the campaign description, or is legally charged with running a false campaign (GoFundMe Guarantee, n.d.). The site has a refund policy of up to \$1,000 for a donation that has been deemed misused. This policy states that GoFundMe will contribute up to \$25,000 of undelivered funds to beneficiaries whose campaign organizer unrightfully kept the funds (GoFundMe Guarantee, n.d.). While these policies are reassuring, they do not provide complete security for donors, and they have not prevented occurrences of fraud on the platform. Because of the limitations on the refundable amount, not all donors are protected. In addition, the award of a refund requires the provision of evidence to support the claim of a fraudulent page. GoFundMe's definition of "evidence" in such situations is unclear.

Donations are refunded only if the request is made within thirty days, thus lowering the likelihood of the receipt of a refund. According to the front page of the GoFundMe website, more than 10,000 new campaigns are started each day. Given the large number of new campaigns being created on the site daily, the likelihood of preventing all fraudulent pages from appearing on the platform is remote. While GoFundMe's steps in fighting fraud are reassuring, additional protections are crucial to the platform's ridding itself of this problem.

GoFundMe has not always been true to its word. The site has stated that users with fundraisers marked as fraudulent would not be able to withdraw money until the campaign has been deemed legitimate. In 2016, one campaign was found not to have adhered to this policy. GoFundMe donations of \$4,800 were allegedly raised for the family of a man killed in Afghanistan; however, before the money could reach the family, it was cashed out and stolen by the family friend who created the campaign. Although "the account [had] been suspended...a cached version still exist[ed]" and the family-friend fraudster was still able to withdraw the \$4,800 despite the campaign's having been marked as fraudulent (Wootson, 2016, para. 16). Thus, the reliability of GoFundMe's advocacy on behalf of fraud victims is questionable.

In fact, a GoFundMe campaign disgusted one individual so much that she created a website dedicated to tracking, exposing, and protesting fraudulent GoFundMe campaigns. This individual, Adrienne Gonzalez, discovering what most would view as an illegitimate GoFundMe campaign, sought to shut it down. The campaign had accumulated thousands of dollars in donations by soliciting veterinary expenses for "Bart the Zombie Cat." In fact, these "necessary" expenses had already been defrayed by the humane society (McCormack, 2017). When GoFundMe failed to remove the page and instead deemed it legitimate, Gonzalez, no longer trusting of GoFundMe's concerns about fraud, created GoFraudMe for individuals reporting fake campaigns (McCormack, 2017). Given that an unaffiliated third party has been policing the fraud on GoFundMe, the site is clearly not fully protecting donors. This is egregious because of the creation of the illusion of donor protection in a full-refund environment.

When a donor finds no remorse or support from GoFundMe, the next step is typically legal action. The scant, opaque regulations regarding donation-based crowdfunding create difficulties for donors. Legal limitations discourage the donor's pursuit of this avenue, especially when the average donations are eleven dollars to fifty dollars. Any litigation pursued would be less likely to be related to money and more to societal betterment. The emotional, monetary, and other costs of litigation over ethical standards limit a donor's options regardless of the moral rightness of the case. This only increases the incidence of fraud in the donation-based crowdfunding environment. Although GoFundMe has stated that "fraud is something that happens less than one-tenth of one percent of the time on its platform," this does not even begin to consider the cases that donors have chosen not to report or the fraudulent cases that GoFundMe might have deemed legitimate (Lawmakers Take Closer Look, 2016, para. 12). Even assuming the accuracy of GoFundMe's statement on the incidence of fraud and the five billion dollars that has been raised on the site, as much as five million dollars in donations has gone to fraudsters.

GoFundMe has also tied the hands of donors who feel victimized by the site. For example, for a donor who feels that GoFundMe has not upheld the terms of its fraud protection guarantee, the legal options are limited. Under the terms and conditions, users "agree that disputes between [the user] and [GoFundMe] will be resolved by binding, individual arbitration and [the user waives their] right to participate in a class action lawsuit or class-wide arbitration" (GoFundMe Terms and Conditions, para. 2). Given that arbitration is likely to favor corporations, challenging the site is a daunting task for a donor. An analysis of the legal system and the actions of GoFundMe indicates that donors are primarily responsible for protecting themselves from fraud when choosing to make charitable contributions.

The tax laws related to donation-based crowdfunding are unclear; thus, they can lead to fraud being committed by the donor and the recipient. Although GoFundMe clearly states that “campaigns [for individuals] are not charities to which you can make tax-deductible charitable contributions,” those uneducated on the qualifications for tax exemptions under section 501(c)(3) of the Internal Revenue Service (IRS) Code could unwittingly deduct their donations to campaigns. They might assume that any donation is covered by the laws governing 501(c)(3) tax-deductible charities (GoFundMe Terms and Conditions, para. 7). A recent case exemplifies this lack of clarity for GoFundMe recipients. Casey Charf had been appealing an IRS decision that she owed “\$15,457 in taxes and another \$3,676 in penalties and interest” for \$50,000 she had raised on GoFundMe to pay for medical bills (Stancil, 2015, para. 6). This action contradicted the tax law that gifts received were not considered income for the recipient. When “voluntary gratuitous transfers through a GoFundMe account represent a digital age means of making gifts,” the tax laws and the categorization of donations to GoFundMe have seemed not to be in agreement (Hamill, 2016, para. 17).

Those concerned with fraud in donation-based crowdfunding may also question the decisions of campaigns for which the goals have been exceeded. For example, in a campaign created to pay a veterinarian bill, the donations could quickly surpass the posted goal even though it is tied to a fixed expense. GoFundMe has provided contradictory advice on this issue. According to the terms and conditions, campaigners have agreed that “donations contributed to [the] campaign will be used solely as described in the materials that [the campaigner posts] or otherwise provide[s]” (GoFundMe Terms and Conditions, para. 12). However, GoFundMe has also stated: “[Y]our campaign will be able to accept donations even after your goal is reached” (Does My Campaign Stop Accepting Donations, n.d.). Whether the excess money can be spent on other items without being considered fraud is unclear. Fortunately, most GoFundMe campaigns do not exceed their donation goals.

That GoFundMe donations are viewed as a gift rather than a donation can create additional complications. Although donations should not be used for vacations when the request is for medical funding, “what’s to keep the honeymoon couple from buying a new car instead of trekking through Tanzania” is unclear (Eckel, 2014, para. 16). Some might even question whether this matters given that both could be considered luxury items. Because GoFundMe is based on trust, campaigners are not obligated to provide proof that the money was indeed used for its intended purpose. Thus, a recipient could create a campaign with the intention of using the funds for other purposes. Because the donors receive no proof of the appropriate use of their money, fraud prevention is extremely difficult.

Another issue arises with the GoFundMe rules and restrictions regarding insurance. Whether someone with full-coverage insurance can fundraise for medical emergencies, funerals, or disasters is unclear. For example, when a fraudulent GoFundMe campaign was created in the wake of the fire at rapper Jim Jones’ mother’s house, Jones ridiculed GoFundMe and those funding the campaign. He noted that someone of his status would obviously have had the insurance to cover such costs. Although the creation of a campaign to reap benefits from another’s loss is fraudulent, GoFundMe has not specified whether Jim Jones himself could have legitimately created this account despite having full-coverage insurance. Furthermore, there is no clear indication about who should or should not start a campaign; thus, proof of the necessity of the funds for mitigating a problem is not required. The site has indicated that campaigns should be created only if insurance does not cover the costs. The following was stated: “[H]ow do you get help with medical expenses that are not covered ... you can get the financial assistance you need with a GoFundMe crowdfunding campaign” (Medical Fundraising, n.d.). Donors would benefit from an explanation of the rules for creating campaigns for individuals with full insurance coverage.

Discussion of Potential Solutions

While the mitigation of many of the inherent risks is difficult, donation-based crowdfunding is very beneficial to society and should therefore receive adequate protections. GoFundMe’s website has a page for donors to report fraud; however, the donation pages provide no links or buttons to indicate to the average user that suspicious requests can be reported. The inclusion of a link on the donation page would make this function more accessible. It would offer a reminder of the site’s policies regarding fraud and facilitate the reporting of suspicious and fraudulent activities.

GoFundMe could team with GoFraudMe for suggestions on monitoring and combating fraud; thus, it could monitor the site to ensure the legitimacy of the campaigns and to encourage donor interactions. GoFundMe would benefit from providing users with a list of safe practices prior to the completion of a donation. The standard safe practices include avoiding pages that have only the minimum amount of information, performing reverse searches on images, examining the campaigner’s social media page, and contacting the campaigner directly (Allan, 2017). If donors were presented with fraud detection tips, they might be able to assist GoFundMe to identify fraudulent campaigns.

Such safeguards would not provide full protection against fraud; therefore, GoFundMe should take the more formal approach of hiring certified fraud examiners on a case and location basis to verify accounts. Verified accounts could be identified by an emblem (similar to a Twitter “verified” account). To fund these efforts, GoFundMe could charge a fee for the verification emblem, or it could also require that all campaigns pay a flat fraud protection fee. Responding to the scrutiny surrounding its fees, GoFundMe removed its 5-percent platform fee and has been accepting voluntary donations only. However, if users begin to donate only to the verified accounts, campaigns would most likely seek to qualify for this designation.

Seriously addressing the issue of fraud on GoFundMe would most likely require more than requesting voluntary donations, especially if GoFundMe expects to retain what the chief executive officer considers “best-in-class customer service, trust and safety protections, and social fundraising technology” (Woolley and Mosendz, 2017, para. 4). The reinstatement of a fee with evidence of verification would most likely be better received than the previous attempt because of the perception of value.

Given the altruistic motivation of the donations, GoFundMe can attempt to discourage fraud by requiring campaigns to submit, in addition to the affidavit, images of receipts or some other form of proof (e.g., photographs or videos) that the funds were indeed used for their intended purpose. Although these methods are subject to falsification, the perceived security for donors would nevertheless be increased, and the additional data would facilitate fraud detection. While the review of every campaign would likely be inefficient, GoFundMe would at least be able to identify the campaigns for which no proof has been submitted and issue an alert to indicate illegitimacy. GoFundMe could also conduct random audits of campaigns to determine the effectiveness of this control. Such transparency would facilitate the identification of fraudulent campaigns and likely deter their creation.

GoFundMe is the only crowdfunding site that has offered any form of fraud protection for donors and beneficiaries. Its policies are not perfect; however, the sites that offer no fraud protections are cause for even greater concern. The need for regulation in this area of donation-based crowdfunding is evident. Very few protections exist beyond the pursuit of legal action or the reporting of fraud to the Federal Bureau of Investigation (FBI). Another form of crowdfunding, equity-based crowdfunding, has become subject to regulation: the JOBS Act. Given this precedent, it is vital that donation-based crowdfunding also be addressed by the government. In some cases, local attorney-general offices have seemed willing to help. However, the New Mexico attorney-general’s office has considered crowdfunding fraud an internet-related crime that should be reported to the FBI’s Internet Crime Complaint Center (New Mexico Office of the Attorney General, personal communication, January 31, 2018).

In addition to providing clarity on responsibilities, these regulations should provide remedies for individuals affected by fraud and specific punishments for the perpetrators. It is likely that such regulations would be created at the federal level and, subsequently, by the states. At this point, clarity is crucial. The clarification of the IRS regulations regarding donation-based crowdfunding would minimize the number of unintentional filing errors and the resulting tax fraud. As was seen in the Charf case, the IRS has not applied the typical gift tax laws to GoFundMe recipients; in fact, it appears to be doing the opposite. It is hoped that this case would set a precedent that would lead to specificity about the taxes owed upon the receipt of GoFundMe donations. Lawmakers cannot be forced to consider such legislation; however, the smooth operation of donation-based crowdfunding will require legal clarifications.

Although the solutions presented in this paper would likely inhibit fraudulent behavior, the inherent limitations should be discussed. No proposed solution can be implemented without GoFundMe’s agreement. From a business perspective, GoFundMe would likely take actions that provide financial and public relations benefits. It is likely that the fight against fraud will require consumers to voice their concerns about GoFundMe and other donation-based crowdfunding sites. A limitation related to the legal environment is lawmakers’ possible failure to recognize the seriousness of these issues. Political activism is alive and well in the United States; however, the development of a significant movement might be needed to create the urgency for an expedited solution. Last, because of the nature of this type of fraud, many cases are underreported or undiscovered. Therefore, the compilation of accurate information on the total losses has been a challenge. Ultimately, a short-term solution would be to increase consumer awareness. This would not only help to protect consumers from becoming victims, but it could also promote systemic change.

Conclusion

In its current state, donation-based crowdfunding is far from perfect. The exponential economic growth in online donations has had societal benefits. Following the aftermath of Hurricane Harvey, thousands of Houston residents were suddenly rendered homeless because of flooding and other damage. To expedite aid to those affected, J. J. Watt, a football player for the Houston Texans, decided to use his platform as an athlete to start a crowdfunding campaign (J. J. Watt Reveals Plans, n.d.). His original goal was \$200,000; however, he raised more than thirty-seven million dollars in donations. The funds were used “to rebuild homes, restore child-care centers, provide food and address health needs of those affected most by Hurricane Harvey in Houston and the surrounding areas” (J. J. Watt Reveals Plans, n.d.). The expediency and accessibility of crowdfunding made this possible, and many are better off today because of it. Although flawed, donation-based crowdfunding has become an integral part of society and has benefited many in times of need. The efforts at preventing fraud will go a long way towards ensuring the continued growth of crowdfunding and, ultimately, the opportunities to help those in need.

References

- Allan, P. (2017, April 18). Four tips for spotting fake GoFundMe campaigns. *Lifehacker*. Retrieved from <https://lifehacker.com/four-tips-for-spotting-fake-gofundme-campaigns-1794432378>
- Barnett, C. (2016, April 28). Top 10 crowdfunding sites for fundraising. *Medium*. Retrieved from <https://medium.com/the-mission/top-10-crowdfunding-sites-for-fundraising-946b11b63480>
- Cordoba, A. (2015, November 14). Boston Marathon bomb “victim” admits to scam. *CNN*. Retrieved from <https://www.cnn.com/2015/11/13/us/boston-marathon-bomb-victims-fraud/index.html>
- Crowdfunding. (2018[KW43]). *Merriam-Webster.com*. Retrieved from <https://www.merriam-webster.com/dictionary/crowdfunding?src=search-dict-box>
- Crowdfund statistics [updated for 2017!]. (2018). *Fundly*. Retrieved from <https://blog.fundly.com/crowdfunding-statistics/#regional>
- Does my campaign stop accepting donations once I hit my goal? (n.d.). Retrieved from <https://support.gofundme.com/hc/en-us/articles/203604544-Does-my-campaign-stop-accepting-donations-once-I-hit-my-goal->
- Eckel, S. (2014, November 3). You want me to give you money for what?! *BBC*. Retrieved from <http://www.bbc.com/capital/story/20140501-you-want-money-for-what>
- Goldman, E. (2015, August 13). Crowdsourcing platform isn’t liable for fraudulent fundraiser. *Forbes*. Retrieved from <https://www.forbes.com/sites/ericgoldman/2015/08/13/crowdsourcing-platform-isnt-liable-for-fraudulent-fundraiser/#23c9425949a8>
- GoFundMe.com. (2017, December 25). Jim Jones mother Nancy—house fire. Retrieved from <http://archive.is/rx0U7>
- GoFundMe Guarantee. (n.d.). Retrieved from <https://www.gofundme.com/guarantee-refund-policy>
- GoFundMe Terms and Conditions (2017, November 30). Retrieved from <https://www.gofundme.com/terms>
- Hamill, J. (2016, January 4). GoFundMe donations considered non-taxable gifts. *Albuquerque Journal*. Retrieved from <https://www.abqjournal.com/700066/gofundme-donations-considered-nontaxable-gifts.html>
- J. J. Watt reveals plans for Hurricane Harvey funds. (2017, October 26). *NFL.com*. Retrieved from <http://www.nfl.com/news/story/0ap3000000867498/article/jj-watt-reveals-plans-for-hurricane-harvey-funds>
- Kopetman, R. (2017, October 6). GoFundMe side of Las Vegas massacre shows us at our best, worst. *The Orange County Register*. Retrieved from <https://www.ocregister.com/2017/10/06/gofundme-side-of-las-vegas-massacre-shows-us-at-our-best-worst/>
- Lawmakers take closer look at potential crowdfunding scams. (2016, March 2). *CBS News*. Retrieved from <https://www.cbsnews.com/news/crowdfunding-sites-gofundme-youcaring-fraud-unregulated-ftc/>
- McCormack, A. (2017, November 10). ‘Go Fraud Me’: The woman who hunts down fake GoFundMe campaigns. *ABC*. Retrieved from <http://www.abc.net.au/triplej/programs/hack/go-fraud-me/9135226>
- Medical fundraising. (n.d.). Retrieved from <https://www.gofundme.com/medical-fundraising>
- Smith, A. (2016, May 19). Collaborative: Crowdfunding platforms. *Pew Research Center*. Retrieved from <http://www.pewinternet.org/2016/05/19/collaborative-crowdfunding-platforms/>
- Stancil, J. (2015, May 5). I’m crowdfunding! Is it taxable? *TaxConnections*. Retrieved from <https://www.taxconnections.com/taxblog/im-crowdfunding-is-it-taxable/#.WrlMTGhKu01>
- Woolley, S., and Mosendz, P. GoFundMe will no longer take a cut of some donations. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2017-11-30/gofundme-will-no-longer-take-a-cut-of-some-donations>.
- Wootson, C. R., Jr. (2016, October 17). After their dad died, a family friend set up a GoFundMe account to help. Then she raided it. *Washington Post*. Retrieved from <http://bi.galegroup.com.libproxy.unm.edu/essentials/article/GALE%7CA466826994/350bebee86d11373307e614ae2cd1fe6?u=albu78484>