

SAVE THAT MONEY: ENSURING DONATIONS RECEIVED THROUGH CROWDFUNDING ARE PROPERLY PROTECTED

by Blake Scott*

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I. PREFACE

In 2012, Chris Salvatore moved into an apartment complex in Los Angeles, California.¹ While coming and going from his new home, Chris noticed an eighty-five-year-old woman named Norma lived in the apartment across the hall.² Chris, a young and outgoing actor, began saying hello to Norma day after day through her kitchen window.³ After a few weeks of waves and greetings, Chris took the liberty of knocking on Norma's door and stepped into her world.⁴ Curious to hear Norma's life stories, Chris began stopping by to see Norma more frequently.⁵ Chris quickly discovered that Norma had no family living in California, she had a laundry list of health problems, and she had no way to get around because she recently lost her ability to drive.⁶ Chris recounts the day he first spoke to Norma face-to-face as the day that changed his life.⁷

Chris took it upon himself to make Norma his best friend.⁸ He began cooking for her, driving her wherever she needed to go, and taking care of her in any way he could.⁹ Thanks to Chris, Norma made it to her doctor appointments, was able to grocery shop, and get to the pharmacy to pick up her medications.¹⁰ The two had become inseparable, but in 2016, Norma's health began declining at a rapid rate.¹¹ Norma, who was now eighty-nine was losing her ability to walk, constantly falling, and suffering from severe asthma attacks throughout the night.¹² Doing everything he could, Chris installed a wireless doorbell from Norma's apartment to his own.¹³ Whenever Norma needed help, she could push the button, and Chris would come running every time—regardless of the hour of the night.¹⁴

Eventually, Norma's health deteriorated to the point that doctors gave her orders that she could not live at home without twenty-four-hour care.¹⁵ Wanting to keep Norma out of the county nursing facility, Chris took it upon himself to raise money to fund professional 24-hour home care for Norma.¹⁶ Not having much money himself, Chris turned to GoFundMe to crowdfund

1. *Help Nora Pay for 24hour Home Care*, GOFUNDME, <https://www.gofundme.com/myneighbor-norma-perma.cc/95YY-NGSK> (last visited Jan. 12, 2018).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

the necessary amount of money.¹⁷ When Chris first launched the crowdfunding campaign, he estimated that the cost of professional home care would be \$3,500 per week.¹⁸ He set the campaign goal at an ambitious \$60,000 and began sharing the campaign link.¹⁹

Chris's campaign quickly went viral, and before he knew it, the campaign surpassed the \$60,000 goal.²⁰ Chris moved Norma into his apartment, set her up in his spare bedroom, and hired around-the-clock professional care for her.²¹ The crowdfunding campaign ended with an astonishing \$77,137 raised, which was enough to fund Norma's care.²² The generosity of everyone who donated to the campaign, along with the inspiring compassion demonstrated by Chris, allowed Norma to live out her last few months comfortably and happily.²³

While Chris's story is an example of how a successful crowdfunding campaign can change people's lives for the better, there are a number of problems which may arise during, or even after, the course of a crowdfunding campaign.²⁴ Consider, for example, what happens with any leftover money after Norma passed away.²⁵ Is the money part of Norma's estate, or is it Chris's property?²⁶ If Chris had passed away during the crowdfunding campaign, would Norma still be entitled to receive the money he raised?²⁷ How would Norma get her hands on the money if she were entitled to it?²⁸ Finally, what if either Chris or Norma had been married and undergone a divorce proceeding during the crowdfunding campaign?²⁹ Whose estate is the money a part of?³⁰ Is the money considered community property in divorce proceedings, or is it separate property?³¹ This comment will consider the issues underlying each of the hypothetical questions, provide answers to each, and ultimately prepare attorneys to confidently address similar issues should they arise in practice.³²

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. *See infra* Part VIII.A.

25. *See infra* Part VIII.A.

26. *See infra* Part VIII.A.

27. *See infra* Part VIII.A.

28. *See infra* Part VIII.A.

29. *See infra* Part VIII.A.

30. *See infra* Part VIII.A.

31. *See infra* Part VIII.A.

32. *See infra* Part VIII.A.

II. INTRODUCTION

Crowdfunding has quickly become one of the most popular ways to raise money in today's internet-driven society.³³ The purpose of this comment is to bring awareness to the major property and estate planning issues embedded in crowdfunding, consider possible solutions to those issues, and ultimately offer guidance to attorneys so they can provide informed and competent advice to clients engaged in crowdfunding.³⁴

Before diving headfirst into the relatively new world of crowdfunding, specific nomenclature and terms must be established and defined.³⁵ Following the definitions, this comment will provide a brief background on crowdfunding and the exponential growth it has seen in the past decade.³⁶ It is important to understand the rapidly growing trend of crowdfunding to properly plan for the future impact it will have on estate planning as well as society as a whole.³⁷ The comment will conclude by offering guidance on how Texas attorneys can advise their clients before, during, and after such clients take on the challenge of running a successful crowdfunding campaign.³⁸

III. EXPLANATION OF IMPORTANT TERMS AND PHRASES

Crowdfunding has become a household term as of late, but the concept of crowdfunding dates back centuries.³⁹ Many people engage in crowdfunding daily without even realizing it.⁴⁰ For example, placing money in the offering plate at church is crowdfunding.⁴¹ Pooling money for a gift, to cater food, or to throw a party is crowdfunding.⁴² While there are numerous forms of crowdfunding, this comment will strictly discuss modern-day crowdfunding, which includes taxonomy, words, and phrases with which many are unfamiliar.⁴³

33. Patrick Dholakiya, *Why Crowdfunding Leaves Other Growth Tactics in the Dust*, ENTREPRENEUR, <https://www.entrepreneur.com/article/300816perma.cc/JS5J-R3RE> (last visited Feb. 5, 2018).

34. *See infra* Part VIII.A.

35. *See infra* Part IV.

36. *See infra* Part V.

37. *See generally* 2015CF: *The Crowdfunding Industry Report*, MASSOLUTION, http://reports.crowdsourcing.org/index.php?route=product/product&product_id=54 perma.cc/PL72-5DH9 (last visited Sept. 26, 2017) [hereinafter *Industry Report*].

38. *See infra* Part VII.

39. *See Industry Report*, *supra* note 37, at 37.

40. *Id.*

41. *Id.*

42. *Id.*

43. *See infra* Part III.A.

A. Definitions

Crowdfunding is simply “the practice of obtaining needed funding (as for a new business) by soliciting contributions from a large number of people especially from the online community.”⁴⁴ While this simple definition may be sufficient for day-to-day discussion, this comment will rely on Massolution’s (the industry leader in crowdfunding analytics) definition, which defines crowdfunding as “any kind of capital formation where both funding needs and funding purposes are communicated broadly, via an open call, in a forum where the call can be evaluated by a large group of individuals, the crowd, generally taking place on the internet.”⁴⁵

In every crowdfunding campaign, there are two major parties—the campaign owner and the crowdfunder.⁴⁶ The crowdfunding Industry Report defines campaign owners as “the person or company who is in charge of the campaign . . . In the case of financial crowdfunding, this is the issuer.”⁴⁷ Crowdfunders, on the other hand, are “the individual[s] that support or invest in crowdfunding campaigns. Philanthropic causes motivate some crowdfunders of non-financial return crowdfunding campaigns, or investors in the case of crowdfunding for financial return.”⁴⁸ A third class of people has emerged which adds a level of complexity to the crowdfunding issues as well—the “considerate friend.”⁴⁹ The considerate friend is a campaign owner who creates a crowdfunding campaign with another individual as the intended beneficiary.⁵⁰

Numerous types of crowdfunding models have emerged in recent years ranging from project-based models, investment or equity models, charitable models, and many more.⁵¹ To effectively discuss certain types of crowdfunding models, it is necessary to establish a taxonomy by which to reference the different crowdfunding models.⁵² This comment will employ the Massolution taxonomy for crowdfunding, although numerous other taxonomies exist in this rapidly expanding field.⁵³ Massolution taxonomy bases itself on the campaign’s ultimate goal, and the terms are relatively

44. *Crowdfunding Definition*, MERIAM-WEBSTER.COM, <https://www.merriam-webster.com/dictionary/crowdfunding> perma.cc/5RDL-DZQD (last visited Sept. 26, 2017).

45. See *Industry Report*, *supra* note 37, at 34.

46. See *id.*

47. See *id.*

48. *Id.*

49. See generally Jamie Drennen, *An Analysis and Prediction of Federal Taxation as it Pertains to Crowdfunding*, 19 DUQ. BUS. L. J. 144 (describing the considerate friend and the possible taxation issues the considerate friend poses).

50. See generally *id.* (describing the considerate friend and the possible taxation issues the considerate friend poses).

51. See *Industry Report*, *supra* note 37, at 34.

52. *Id.*

53. *Id.*

intuitive.⁵⁴ According to Massolution's report, "crowdfunding models refers to the non-financial return forms of donation-based (i.e. philanthropic gestures) and reward-based crowdfunding (i.e. capital for perquisites), as well as the financial return crowdfunding models: lending-based (or debt-based), equity-based, and royalty-based crowdfunding, which is also sometimes know[n] as securities-based crowdfunding."⁵⁵ This taxonomy model is based on the type of exchange that occurs between the crowdfunder and the campaign owner.⁵⁶

B. Crowdfunding v. Crowdsourcing

People often interchange the word "crowdfunding" with "crowdsourcing," but it is important to understand the distinction between the two for the purpose of this comment.⁵⁷ Crowdsourcing is defined as a system or platform which "enlists a crowd of users to *explicitly* collaborate to build a long-lasting *artifact* that is beneficial to the whole community."⁵⁸ Crowdfunding, on the other hand, is the concept of using crowds to collect funds.⁵⁹ A simple way to grasp the distinction between the two is to consider examples of each.⁶⁰ Typical examples of crowdsourcing include Wikipedia, Linux, and Yahoo! Answers.⁶¹ Examples of crowdfunding platforms include GoFundMe, Kickstarter, and IndieGoGo.⁶² When comparing these types of campaigns, it is simple to distinguish between the two.⁶³ Crowdfunding is the act of gathering funds for a specific purpose, while crowdsourcing is the collaboration of a community to create something which benefits the community.⁶⁴

54. *Id.*

55. *Id.*

56. *Id.* at 40.

57. See Sammie Schweissguth, *Crowdsourcing vs. Crowdfunding: What's the Difference?*, CROWDSOURCE: INDUSTRY NEWS (July 23, 2013), <https://www.crowdsourcing.com/blog/2013/07/crowdsourcing-vs-crowdfunding-whats-the-difference> perma.cc/XST8-UJNN.

58. Anhai Doan, *Crowdsourcing Systems on the World Wide Web*, COMMUNICATIONS OF THE ACM, Apr. 2011, at 86, 87, <https://cacm.acm.org/magazines/2011/4/106563-crowdsourcing-systems-on-the-world-wide-web/fulltext> perma.cc/9MZ3-7F2L.

59. See *Industry Report*, *supra* note 37, at 34.

60. Doan, *supra* note 58, at 86–87.

61. *Id.* at 86.

62. See *Industry Report*, *supra* note 37, at 63.

63. Compare *Wikipedia:About*, WIKIPEDIA, <https://en.wikipedia.org/wiki/Wikipedia:About> perma.cc/BK92-VBSA (last visited Oct. 19, 2017) (explaining the purpose of wikipedia as well as how it works), with *How it works*, GOFUNDME, <https://www.gofundme.com/tour> perma.cc/8YEW-Q42R (last visited Oct. 19, 2017) (explaining the purpose of GoFundMe as well as how it works).

64. Compare Doan, *supra* note 58, at 86–87, and Schweissguth, *supra* note 57, with *Industry Report*, *supra* note 37, at 37.

IV. BACKGROUND

As mentioned previously, crowdfunding got its start centuries ago when communities or groups would pool their resources for a common purpose.⁶⁵ The first noted large-scale crowdfunding campaign, however, did not appear until 1997 when a British rock band utilized the concept to fund a reunion tour.⁶⁶ This led to the first true crowdfunding platform in 2000, known as ArtistShare, which was designed to help finance bands and artists.⁶⁷ In 2009, crowdfunding officially took off as a major source of funding as multiple platforms emerged.⁶⁸

By 2012, crowdfunding had exploded, and today there are well over 1,250 recognized crowdfunding platforms.⁶⁹ Since the emergence of modern-day crowdfunding, there has yet to be a year where the growth of crowdfunding has failed to exceed the growth of the previous year.⁷⁰ Many factors have played into the rapid expansion of crowdfunding, including the ever-increasing presence of the internet and mobile banking in our daily lives, and these driving forces do not show any signs of stopping.⁷¹

The expansion of crowdfunding demonstrates more than a simple increase in the number of platforms and campaigns.⁷² The growth is largely a result of more people being willing to contribute to campaigns.⁷³ While the average amount raised per campaign has remained relatively flat, the number of campaigns to reach their goals has steadily increased.⁷⁴ This growth, paired with the general increase in the number of crowdfunding campaigns, suggests people no longer use crowdfunding exclusively for large funding goals, but for smaller, more common goals.⁷⁵

V. THE LAW: COMMUNITY PROPERTY V. SEPARATE PROPERTY

In Texas, property acquired during a marriage is presumed to be community property.⁷⁶ However, if property is “(1) the property owned or claimed by the spouse before marriage; (2) the property acquired by the spouse during marriage by gift, devise, or descent; and (3) the recovery for personal injuries sustained by the spouse during marriage, except any

65. See *Industry Report*, *supra* note 37, at 37.

66. See *The History of Crowdfunding*, FUNDABLE, <https://www.fundable.com/crowdfunding101/history-of-crowdfunding> perma.cc/HE99-LBVA (last visited Oct. 20, 2017).

67. *Id.*

68. *Id.*

69. See *Industry Report*, *supra* note 37, at 8.

70. *Id.*

71. See *id.* at 37–38.

72. See *id.* at 15–16.

73. See *id.*

74. See *id.*

75. See *id.*

76. TEX. FAM. CODE ANN. § 3.003(a) (West 1997).

recovery for loss of earning capacity during marriage” then the property is considered separate property.⁷⁷

Community property, in contrast, is simply defined as “the property, other than separate property, acquired by either spouse during marriage.”⁷⁸ The law makes the distinction between community and separate property at the inception of title.⁷⁹ The courts determined that inception of title occurs when title has vested, and the party has a right of claim to the property.⁸⁰ Accordingly, for crowdfunding, there will need to be a determination as to when the beneficiary actually has a claim to the property.⁸¹

Whether donations to a crowdfunding campaign become community or separate property will hinge primarily on the classification of donations as either gifts or something other than gifts, such as income.⁸² In Texas, a gift to an individual who is married is separate property as a matter of law, but that does not mean the gift will remain separate property or that the grantee will be able to adequately prove the property was a gift when he or she received it.⁸³ Clear and convincing evidence that property is separate is required to overcome the statutory presumption of community property.⁸⁴

The definition of clear and convincing evidence, to overcome the presumption of community property, is the degree of proof necessary to produce a firm belief or conviction in the mind of the trier of fact that the property is separate rather than community.⁸⁵ The burden of proving by clear and convincing evidence that certain property is separate, rather than community, lies with the party claiming the separate property.⁸⁶ To meet this burden, the spouse must present evidence that clearly traces and identifies the disputed property as separate property.⁸⁷ When a party offers clear and convincing evidence, the presumption no longer plays a role in the determination.⁸⁸ Additionally, the initial presumption may not be used as evidence to convince the trier-of-fact that property is communal.⁸⁹ The distinction between community and separate property will be vital when determining how funds in a crowdfunding account will be distributed in the event of a divorce as well as how the funds will be distributed in the event of a crowdfunding campaign owner’s death.⁹⁰

77. TEX. FAM. CODE. ANN. § 3.001 (West 1997).

78. TEX. FAM. CODE. ANN. § 3.002 (West 1997).

79. *Winkle v. Winkle*, 951 S.W.2d 80, 88 (Tex. App.—Corpus Christi June 1997, pet. denied).

80. *Id.*

81. *See id.*

82. *See* TEX. FAM. CODE. ANN. § 3.001 (West 1997).

83. *See id.*

84. TEX. FAM. CODE. ANN. § 3.003(b) (West 1997).

85. *Prague v. Prague*, 190 S.W.3d 31, 36 (Tex. App.—Dallas 2005, pet. denied).

86. *Pearson v. Fillingim*, 332 S.W.3d 361, 363 (Tex. 2011).

87. *Tarver v. Tarver*, 394 S.W.2d 780, 783 (Tex. 1965).

88. *Roach v. Roach*, 672 S.W.2d 524, 530 (Tex. App.—Amarillo 1984, no writ).

89. *Id.*

90. *See* TEX. FAM. CODE. ANN. § 3.001 (West 1997).

VI. ARE DONATIONS TO CROWDFUNDING CAMPAIGNS COMMUNITY OR SEPARATE PROPERTY?

It is important to determine whether the funds in a crowdfunding campaign are considered community or separate property.⁹¹ Because Texas distributes separate property differently than community property, this determination will bear on how the funds are disbursed in the event of both death and divorce.⁹² As mentioned previously, this determination will hinge on whether the law classifies the contributions as gifts or something other than gifts.⁹³ If the funds are classified as gifts, then the funds will also be classified as separate property.⁹⁴ If the funds are classified as something other than gifts, such as income, then the funds are classified as community property.⁹⁵

A. *Gifts v. Income*

Crowdfunding walks a fine line between classification as a series of gifts rather than revenue or income, and that classification could make a significant difference for estate planning.⁹⁶ Currently, there are many factors to consider when determining how the money flowing into a crowdfunding campaign should be classified—although there are no statutes or case law which provide a bright-line test.⁹⁷

The Texas courts define a gift as “a transfer of property made voluntarily and gratuitously.”⁹⁸ In *Grimsley v. Grimsley*, the court explains that there must be (1) “an intent to make a gift” by the crowdfunder, (2) “delivery of the property” to the beneficiary, and (3) “acceptance of the property” by the beneficiary.⁹⁹ This three-part test forces a determination of when the funds in a crowdfunding campaign are considered to be delivered to—and accepted by—the beneficiary.¹⁰⁰

91. Compare TEX. EST. CODE ANN. § 201.002 (West 2014), with TEX. EST. CODE ANN. § 201.003 (West 2014) (comparing the difference between distribution of personal and community property when the decedent dies intestate).

92. Compare TEX. EST. CODE ANN. § 201.002 (West 2014), with TEX. EST. CODE ANN. § 201.003 (West 2014) (comparing the difference between distribution of personal and community property when the decedent dies intestate).

93. See TEX. FAM. CODE ANN. § 3.001 (West 1997).

94. See *id.*

95. See *id.*; TEX. FAM. CODE ANN. § 3.003 (West 1997).

96. See *Industry Report*, *supra* note 37, at 40.

97. See *infra* Part VI.A–B.

98. *Powell v. Powell*, 822 S.W.2d 181, 182 (Tex. App.—Houston [1st Dist.] Dec. 5, 1991, writ denied).

99. *Grimsley v. Grimsley*, 632 S.W.2d 174, 177 (Tex. App.—Corpus Christi Apr. 8, 1982, no writ).

100. See *id.*

The first prong of the test described in *Grimsley* is “intent to make a gift.”¹⁰¹ In other words, the beneficiary must prove by clear and convincing evidence that each crowdfunder of the campaign intended their donation to be a gift.¹⁰² However, many of the donations made to crowdfunding campaigns are anonymous or lack a description by the crowdfunder of the purpose of their contribution.¹⁰³ How, then, can intent of a gift be demonstrated by “clear and convincing evidence” if the crowdfunder never expressly states their intent?¹⁰⁴

For situations in which the crowdfunder has not clearly stated the intent of their asset transfer, Texas courts rely on extrinsic evidence to determine intent.¹⁰⁵ The court in *Dutton v. Dutton* clearly states, “extrinsic evidence is important in cases where the nature of a gift is raised.”¹⁰⁶ The most valuable extrinsic evidence in determining the nature of contributions is likely to be the public description of the crowdfunding campaign as published on the crowdfunding platform.¹⁰⁷ For this reason, it is important that managers of a crowdfunding campaign explicitly state the purpose of their campaign so as to leave no doubt about the intent of the crowdfunders.¹⁰⁸

Additionally, it is worth noting that no gifts become part of the community estate—even if the gifts are directed to both spouses.¹⁰⁹ Rather, each spouse acquires an undivided one-half interest in the gift.¹¹⁰ There are likely to be many crowdfunding campaigns raising money for a family, or spouses, in need rather than a single individual.¹¹¹ In instances like this, if the law considers the funds as “gifts,” each spouse is entitled to an undivided one-half interest in the funds received.¹¹²

B. Determining If Contributions are Gifts

A contribution’s classification hinges on the intent of each crowdfunder.¹¹³ However, because it is unlikely each crowdfunder took the time to describe the intent of his or her donation, the courts will use extrinsic

101. *Id.*

102. *Id.*

103. *Id.*

104. *See* *Dutton v. Dutton*, 18 S.W.2d 849, 854 (Tex. App.—Eastland May 4, 2000, pet. denied).

105. *Id.*

106. *Id.*

107. 7 *Tips for Writing a Captivating Story*, GOFUNDME, <https://support.gofundme.com/hc/en-us/articles/115011597367-7-Tips-for-Writing-a-Captivating-Story> perma.cc/TJF9-29QA (last visited Nov. 8, 2017).

108. *See Dutton*, 18 S.W.2d at 854.

109. *Roberts v. Roberts*, 999 S.W.2d 424, 431 (Tex. App.—El Paso June 30, 1999, no pet.).

110. *Id.*

111. *See supra* Part V.

112. *See supra* Part VI.

113. *Grimsley v. Grimsley*, 632 S.W.2d 174, 177 (Tex. App.—Corpus Christi Apr. 8, 1982, no writ).

evidence to determine the crowdfunder's intent.¹¹⁴ Crowdfunding platforms, such as GoFundMe, allow campaign owners to raise funds for nearly any purpose.¹¹⁵ GoFundMe lists several examples of reasons to start a crowdfunding campaign including "medical expenses, education costs, trips and aspirations, volunteer programs, youth sports, funerals and memorials, or animals and pets."¹¹⁶ These examples, however, are noticeably different from the types of campaigns Kickstarter promotes.¹¹⁷ Kickstarter states it "can be used to create all sorts of things: art and gadgets, events and spaces, ideas and experiences. But every project needs a plan for creating something and sharing it with the world."¹¹⁸ This unlimited range of diversity makes a bright line rule for crowdfunding campaigns difficult, if not impossible, to establish.¹¹⁹

C. Distribution of Community Property Funds

Distribution of community property in Texas is relatively simple.¹²⁰ The general rule is that when a person dies intestate but leaves a surviving spouse, the community property becomes the property of the surviving spouse.¹²¹ However, the distribution can become more complicated when children are involved.¹²² If the decedent's children are also the children of the surviving spouse, then all of the community property is still passed to the surviving spouse.¹²³ An exception occurs when the decedent has children conceived with someone other than the surviving spouse.¹²⁴ In this instance, the law splits the community property to entitle the children of the decedent who are not of the surviving spouse to one-half of all community property while retaining the remaining half for the surviving spouse.¹²⁵

114. *Dutton v. Dutton*, 18 S.W.2d 849, 854 (Tex. App.—Eastland May 4, 2000, pet. denied).

115. *What can I use GoFundMe for?*, GOFUNDME, <https://support.gofundme.com/hc/en-us/articles/204912047-What-can-I-use-GoFundMe-for> perma.cc/PF3H-DU55 (last visited Nov. 8, 2017).

116. *Id.*

117. *Our Rules*, KICKSTARTER, <https://www.kickstarter.com/rules?ref=footer> perma.cc/2n55-e2np (last visited Nov. 8, 2017).

118. *Id.*

119. *See generally* Drennen, *supra* note 49, at 165 (concluding that each crowdfunding campaign is too different for the IRS to regulate further on the issue of whether contributions are income or gifts).

120. *See* TEX. EST. CODE ANN. § 201.003 (West 2014).

121. *See id.*

122. *See id.*

123. *See id.*

124. *See id.*

125. *See id.*

D. Distribution of Separate Property Funds

Distribution of separate property in Texas is slightly more complicated than the distribution of community property.¹²⁶ Section 201.002 of the *Texas Estates Code* outlines the persons entitled to claim of title for property of a decedent who passes intestate and leaves behind personal property.¹²⁷ If the decedent has children and a surviving spouse, the children are entitled to two-thirds of the personal estate, while the surviving spouse is entitled to one-third of the personal estate.¹²⁸ If, however, the decedent has no children, then the surviving spouse is entitled to all of the decedent's personal estate.¹²⁹

VII. RECOVERING FUNDS FROM A CROWDFUNDING CAMPAIGN IF THE CAMPAIGN OWNER DIES

Another major dilemma in regard to crowdfunding is how to recover funds that have been contributed to a crowdfunding campaign if the campaign owner passes away before withdrawing the campaign contributions.¹³⁰ GoFundMe, for example, requires the first withdrawal be requested manually by the campaign owner while they are logged into their GoFundMe account.¹³¹ If the campaign owner executes the initial withdrawal, then all future contributions to the campaign will be automatically deposited in the campaign owner's bank account.¹³² However, if the campaign owner does not execute the initial withdrawal within thirty days, GoFundMe will prevent the campaign from accepting new contributions.¹³³ If the campaign owner does not execute the initial withdrawal within sixty days, GoFundMe will refund all of the contributions back to the crowdfunders.¹³⁴ Therefore, if the campaign owner failed to leave the account login information with an interested party, it may prove difficult for anyone to login to the campaign and manually withdraw the funds from the campaign.¹³⁵

If Texas licensed crowdfunding platforms as a recognized financial institution, then Texas case law, paired with the special regulations surrounding banks and financial institutions, would provide a way of

126. See TEX. EST. CODE ANN. § 201.002 (West 2014).

127. See *id.*

128. See *id.*

129. *Id.*

130. See *supra* Part I.

131. *How long do I have to withdraw my funds?*, GOFUNDME, <https://support.gofundme.com/hc/en-us/articles/204119238-How-long-do-I-have-to-withdraw-my-funds-> perma.cc/R8QD-4KP4 (last visited Jan. 19, 2018).

132. *Id.*

133. *Id.*

134. *Id.*

135. See *supra* Part I.

recovering the funds by way of a probated will.¹³⁶ Most—if not all—crowdfunding platforms are not registered as financial institutions, but they do use third-party companies, who are registered financial institutions, to actually carry out each donation and withdrawal transaction.¹³⁷

A. *Texas Revised Uniform Fiduciary Access to Digital Assets Act*

A problem that has plagued the digital world since the inception of the internet is how to recover digital assets when the owner of those digital assets passes away.¹³⁸ Texas, along with many other states, has attempted to address this problem by passing a revised version of the Uniform Fiduciary Access to Digital Assets Act, known as the Texas Revised Uniform Fiduciary Access to Digital Assets Act (TRUFADAA).¹³⁹

This new addition to the *Texas Estate Code* outlines when, and how, an executor, administrator, or individual with power of attorney can access the digital assets of a deceased individual.¹⁴⁰ The TRUFADAA, however, limits “digital assets” to a scope so narrow it is unlikely the contributions to a crowdfunding campaign would qualify.¹⁴¹ The statute defines digital assets as “an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.”¹⁴² Therefore, because the asset in question is money rather than an “electronic record,” the executor, administrator, guardian, or person with durable power of attorney would not be able to gain access to the funds in a crowdfunding account via this statute.¹⁴³

This is unfortunate because the TRUFADAA explicitly excludes financial institutions from being covered by the statute¹⁴⁴ and GoFundMe, the world’s leading crowdfunding platform,¹⁴⁵ claims that:

GoFundMe is not a broker, agent, financial institution, creditor or insurer for any user. GoFundMe has no control over the conduct of, or any information provided by, a Campaign Organizer, a Charity or any other user

136. See TEX. EST. CODE ANN. § 351.001; accord *Young v. Marlin Nat’l Bank*, 458 S.W.2d 506, 506 (Tex. Civ. App.—Waco 1970, writ ref’d n.r.e.).

137. *GoFundMe Terms and Conditions*, GOFUNDME, <https://www.gofundme.com/terms-perma.cc/BP9M-KTH8> (last visited Oct. 19, 2017) [hereinafter *Terms and Conditions*].

138. See John Connor, *Digital Life After Death: The Issue of Planning for a Person’s Digital Assets After Death*, 3 EST. PLAN. & COMMUNITY PROP. L.J. 301 (2011).

139. TEX. EST. CODE ANN. § 2001.001 (West 2017).

140. See TEX. EST. CODE ANN. § 2001.053–.102 (West 2017).

141. See TEX. EST. CODE ANN. § 2001.002(8) (West 2017).

142. *Id.*

143. *Id.*

144. 18 U.S.C. § 2510(12)(D) (2002); TEX. EST. CODE ANN. § 2001.002(10) (West 2017).

145. About Us, GOFUNDME, <https://www.gofundme.com/about-us-perma.cc/SA2W-8F72> (last visited Nov. 8, 2017).

and GoFundMe hereby disclaims all liability in this regard to the fullest extent permitted by applicable law.¹⁴⁶

Therefore, if the TRUFADAA were to be amended to allow certain underlying assets—or to include assets held by a mere conduit or intermediary—then crowdfunding campaigns would be subject to the TRUFADAA and fiduciaries, trustees, and those with durable power of attorney of the deceased would be able to utilize the statute to access the campaign funds.¹⁴⁷

Within its terms of services, GoFundMe outlines what types of institutions it is *not*, but GoFundMe fails to clearly state what kind of institution it *is*.¹⁴⁸ The closest GoFundMe gets to stating exactly what type of entity it considers itself to be is an “administrative platform.”¹⁴⁹ Crowdfunding sites are not registered as financial institutions, and therefore, are not subject to the same regulations and requirements as financial institutions.¹⁵⁰ In Texas, courts may compel financial institutions to release the balance of accounts held by a deceased to an interested person—such as an heir or spouse.¹⁵¹ Without protection from the TRUFADAA or the protection inherent in a financial institution, it may prove extremely difficult for heirs, spouses, or anyone else with an interest in a deceased’s estate to gain access to the funds in the crowdfunding campaign.¹⁵²

B. Utilizing the Courts to Compel Crowdfunding Platforms to Provide Account Access to Fiduciaries

While the TRUFADAA may prove futile in a fiduciary’s attempt to access the crowdfunding campaign funds, the fiduciary may have a remedy in the courts.¹⁵³ GoFundMe’s Terms and Conditions explicitly state that “GoFundMe facilitates the Donation transaction between Campaign Organizers and Donor, but is *not* a party to any agreement between a campaign organizer and a Donor. . .” [emphasis added]¹⁵⁴ This statement is significant because it confirms that the crowdfunding platform is simply an intermediary rather than a party to the transaction.¹⁵⁵ The distinction between whether the crowdfunding platform is a party to the transaction or not is

146. *Terms and Conditions*, *supra* note 137.

147. 18 U.S.C. § 2510(12)(D) (2002); TEX. EST. CODE ANN. § 2001.002–.232 (West 2017); TEX. EST. CODE ANN. § 752.1145 (West 2017); TEX. EST. CODE ANN. § 113.031 (West 2017).

148. *Terms and Conditions*, *supra* note 137.

149. *Id.*

150. *Id.*

151. TEX. EST. CODE ANN. § 153.003 (West 2015).

152. *See infra* Part VII.

153. *See infra* Part V.

154. *Terms and Conditions*, *supra* note 137.

155. *Id.*

important in determining when the beneficiary or campaign owner acquires title to the transferred funds, as well as determining whether or not the crowdfunding platform has a right to withhold funds from the campaign owner or beneficiary.¹⁵⁶

Section 550 of the *United States Bankruptcy Code* addresses financial transfers.¹⁵⁷ The statute does not define the term “initial transferee”, but the Fifth Circuit, as well as many other federal circuits, have interpreted the meaning of initial transferee through common law.¹⁵⁸ In *Matter of Coutee*, the Fifth Circuit adopted the majority rule for determining whether a recipient of a financial transfer is an initial transferee by articulating that “a party that receives a transfer directly from the debtor will not be considered the initial transferee unless that party gains actual dominion or control over the funds.”¹⁵⁹ If the party never exercises dominion or control over the funds, then they are said to be a “mere conduit” in the transaction.¹⁶⁰ The dominion and control requirement meet when the party is, “in essence, ‘free to invest the whole [amount] in lottery tickets or uranium stocks’ if it wishes.”¹⁶¹

Based on the description in GoFundMe’s Terms and Conditions, it seems that GoFundMe has effectively revoked any right it may have to the funds in a crowdfunding campaign so long as it has no reason to believe the crowdfunding campaign is fraudulent or being utilized for other illegal activity.¹⁶² Because crowdfunding platforms, such as GoFundMe, have opted to explicitly remove themselves as a party to the transaction and act as a mere conduit, it is likely the crowdfunding platforms will not be considered an initial transferee.¹⁶³

If the crowdfunding platform is not an initial transferee, then the initial transferee is the campaign owner or the beneficiary.¹⁶⁴ This conclusion begs the questions: at what point does the campaign owner or beneficiary have a claim to the title of the funds?¹⁶⁵ Do the beneficiaries have a claim to the title the moment the crowdfunder makes a donation, the moment the campaign owner manually clicks withdraw, or the moment the funds reach the actual possession of the campaign owner or beneficiary?¹⁶⁶

156. 11 U.S.C. § 550 (1994); *Matter of Coutee*, 984 F.2d 138, 140–41 (5th Cir. 1993).

157. 11 U.S.C. § 550 (1994).

158. *See Matter of Coutee*, 984 F.2d at 140–41.

159. *Id.* at 141.

160. *Id.* at 140.

161. *Id.* at 140–41 (quoting *Bonded Financial Services, Inc. v. European American Bank*, 838 F.2d 890, 894 (7th Cir. 1988)).

162. *Terms and Conditions*, *supra* note 137.

163. *Id.*; *see Matter of Coutee*, 984 F.2d at 140.

164. *See Matter of Coutee*, 984 F.2d at 140.

165. *See infra* Part VII.C.

166. *See infra* Part VII.C.

C. The Effect of Third-Party Payment Processing

Buried deep within GoFundMe's Terms and Conditions is a single sentence disclosing that GoFundMe uses a third-party payment processing partner to handle all financial transactions.¹⁶⁷ GoFundMe lists a string of third-party payment processing partners ("Processors") they use including "WePay, Inc., Stripe, Inc., Adyen LLC, PayPal, Inc., and PayPal Giving Fund."¹⁶⁸ Further investigation into these Processors complicates the issue of recovering funds from the campaign of a deceased campaign owner while simultaneously simplifying the issue.¹⁶⁹

By using Processors to complete transactions, crowdfunding platforms like GoFundMe never have access to the funds donated through their website.¹⁷⁰ GoFundMe, Kickstarter, and IndieGoGo all use Processors rather than handling transactions between campaign crowdfunders and campaign owners themselves.¹⁷¹ While the two major Processors used by crowdfunding platforms differ in their business models, licensing, partnerships, and structures, the result from a crowdfunding crowdfunder or crowdfunding campaign owner's perspective is the same.¹⁷²

WePay, the primary Processor for GoFundMe, is a Payment Service Provider (PSP).¹⁷³ WePay is clear that it is not a licensed Money Transmitter or a registered Money Services Business.¹⁷⁴ By acting simply as a PSP, WePay—similar to GoFundMe—never has control or ownership over the funds it processes.¹⁷⁵ Rather, WePay has partnered with a member bank (Bank) who is ultimately responsible for the collection, transfer, and deposit of funds.¹⁷⁶

167. *Terms and Conditions*, *supra* note 137.

168. *Id.*

169. *Compare supra* Part VII.A–B, *with infra* Part VIII.C.

170. *Compare Terms and Conditions*, *supra* note 137 (describing GoFundMe as a facilitating platform rather than a party to the transaction), *with WePay Terms of Service*, WEPAY, <https://go.wepay.com/terms-of-service#us> perma.cc/B4RM-WSD8 (last visited Jan. 19, 2018) (stating WePay is a Payment Service Provider and outlining WePay's relation to platforms, member banks, processors, and merchants) [hereinafter *Terms of Service*], and *Stripe Payments Company Terms*, STRIPE, <https://stripe.com/spc/legal> perma.cc/GP7L-7JGP (last visited Jan. 19, 2018) (stating Stripe Payment Company is a licensed money transmitter and federally registered money services business) [hereinafter *Stripe Terms*].

171. *See Terms and Conditions*, *supra* note 137; *see Terms of Use*, KICKSTARTER, <https://www.kickstarter.com/terms-of-use?ref=global-footer> (last visited Jan. 19, 2018) perma.cc/YN2V-8KXU. *See Terms of Use*, INDIEGOGO, https://www.indiegogo.com/about/terms?utm_source=learn&utm_medium=referral&utm_campaign=ent-trustandsafety&utm_content=bodylink (last visited Jan. 19, 2018) perma.cc/7RS3-9M6U.

172. *Compare Terms of Service*, *supra* note 170, *with Stripe Terms*, *supra* note 170.

173. *See Terms of Service*, *supra* note 170.

174. *See id.*

175. *See id.*

176. *See id.*

Understanding how these three entities are connected makes it clear that GoFundMe is nothing more than the “administrative platform” it claims to be.¹⁷⁷ GoFundMe, and other crowdfunding platforms with similar structures, simply offer a platform for campaign owners and crowdfunders to create or browse crowdfunding campaigns.¹⁷⁸ When crowdfunders select a campaign they wish to donate to, they will be prompted to input their payment information into a form created and controlled by WePay.¹⁷⁹ WePay then securely collects the crowdfunder’s payment information and delivers the information to the Bank, who is responsible for initiating and completing the entire transaction.¹⁸⁰

Stripe, the Processor used by Kickstarter and IndieGoGo, both collects a crowdfunder’s payment information *and* acts as the Bank rather than utilizing a third-party member bank.¹⁸¹ This is a slight variation from how WePay operates, but Stripe’s business model eliminates a (seemingly unnecessary) part of the transaction chain.¹⁸² Stripes, as previously mentioned, is both a licensed money transmitter and a federally registered money services business (MSB). While banks and MSBs are distinct, they are both considered financial institutions under the *Code of Federal Regulations*.¹⁸³

These Processors indicate in their Terms of Service that the Bank is authorized to hold, receive, disburse, and settle funds on behalf of the merchant—which in this case is the crowdfunding campaign owner.¹⁸⁴ The Terms of Service state that the transaction is complete once the Bank has made the transaction, and at that point, the bank is holding the funds on behalf of the merchant.¹⁸⁵

D. Utilizing a Probated Will to Collect from a Financial Institution

Regulations addressing security and privacy for financial institutions should provide a sense of relief to crowdfunders since all major crowdfunding platforms use registered financial institutions for transactions between crowdfunders and campaign owners.¹⁸⁶ The additional regulations and requirements that govern financial institutions also allow for easier

177. *See Terms and Conditions*, *supra* note 170.

178. *See id.*

179. *See Terms of Service*, *supra* note 170.

180. *See id.*

181. *Stripe Terms*, *supra* note 170.

182. *Compare Terms of Service*, *supra* note 170, with *Stripe Terms*, *supra* note 170.

183. 31 C.F.R. § 1010.100(t) (2018).

184. *See Terms of Service*, *supra* note 170.

185. *See id.*

186. *See, e.g.*, 15 U.S.C. § 6801 (2010); 16 C.F.R. § 313.12 (2018).

recovery of funds by executors or administrators of a deceased crowdfunding campaign owner's estate.¹⁸⁷

If the decedent dies testate, then the will must be probated before the administration of the estate.¹⁸⁸ Probating the will deems the will "effective to prove title to, or the right to possession of, any property disposed of by the will."¹⁸⁹ Additionally, an executor or administrator must be appointed by the court to effectuate the administration of the estate unless the proper requirements under §§ 401.002–.003 of the *Texas Estates Code* are satisfied to nominate an independent administrator.¹⁹⁰ The application for the court to appoint an executor or administrator may be combined with the application for the probate of the will, and an individual interested in the appointment and the probate is permitted to apply for both.¹⁹¹ If the decedent dies intestate, then either an independent administrator or an administrator appointed by the court through application by an interested party will oversee the administration of the decedent's estate in accordance with Chapter 201 of the *Texas Estates Code*.¹⁹²

If (1) it has been at least ninety days since the date of the decedent's death, (2) there is no pending petition for an appointment of a personal representative for the decedent's estate, and (3) there have been no testamentary or administrative letters granted with respect to the decedent's estate, then any interested person may apply for a court order requiring a financial institution to release the balances of all of the decedent's accounts held by the financial institution.¹⁹³

After an executor or administrator is appointed for the estate, or during the process of applying for an executor or administrator to be appointed, the executor, administrator, or an interested person can file an application with the court admitting a will to probate.¹⁹⁴ An interested person is defined as an heir, devisee, spouse, creditor, or anyone having a property right in the estate being administered.¹⁹⁵ After the will has been admitted into probate, the probated will serves as muniment of title for devisees under the will.¹⁹⁶

Once the executor admits the will into probate, the will, along with a death certificate, can be used to have a financial institution release funds to

187. See *infra* Part VII.D.

188. TEX. EST. CODE ANN. § 256.001 (West 2014).

189. *Id.*

190. TEX. EST. CODE ANN. § 301.051 (West 2015); TEX. EST. CODE ANN. §§ 401.001–.003 (West 2015).

191. TEX. EST. CODE ANN. § 256.051(b) (West 2014).

192. TEX. EST. CODE ANN. §§ 201.001–.003, 201.101–.103, 201.151–.152 (West 2014), §§ 201.051–.062 (West 2015).

193. TEX. EST. CODE ANN. § 153.003 (West 2015).

194. TEX. EST. CODE ANN. § 256.051 (West 2015).

195. TEX. EST. CODE ANN. § 22.018 (West 2014).

196. *Ryan v. Tex. & Pac. Railroad Co.*, 64 Tex. 239, 240 (1885).

the executor of the will.¹⁹⁷ Different financial institutions may have slightly different requirements, but once the executor has a probated will and a death certificate, they should then meet the requirements of any financial institution in which the decedent held an account.¹⁹⁸

E. The Considerate Friend

As mentioned in Part III.A, a considerate friend is a crowdfunding campaign owner who creates a campaign for which another individual is the intended beneficiary.¹⁹⁹ GoFundMe permits a campaign owner to act as a “considerate friend” and provides two options for setting up a campaign in this way.²⁰⁰ The first option is for the campaign owner to receive the funds—either through check or direct deposit—and then personally deliver the funds to the beneficiary.²⁰¹

The second option is to have the funds deposited directly into the beneficiary’s account.²⁰² If the campaign owner sets up the crowdfunding campaign, so the funds are directly deposited into the account of the beneficiary, very few problems should ever arise because the campaign owner never takes possession of the funds.²⁰³

VIII. RECOMMENDATIONS TO ATTORNEYS ENGAGED IN ESTATE PLANNING

The Preface of this comment posed a series of questions following Norma and Chris’s story.²⁰⁴ Each section of this comment has, thus far, identified new issues, provided insight into how those issues might be resolved, and established rules that govern each issue discussed.²⁰⁵ Using the rules and conclusions previously discussed, this comment will finally address each issue from the Preface individually, as well as provide suggestions for attorneys who may face similar issues in practice.²⁰⁶

197. *How to Obtain Access to a Bank Account by Executor*, POCKET SENSE, <https://pocketsense.com/obtain-access-bank-account-executor-6315340.html> (last visited 1/21/2018) perma.cc/XKE2-5QQYU.

198. *Id.*

199. See generally Jamie Drennen, *An Analysis and Prediction of Federal Taxation as it Pertains to Crowdfunding*, 19 DUQ. BUS. L. J. 144 (2017) (describing the considerate friend and the possible taxation issues the considerate friend poses).

200. *GoFundMe Guide: Inviting a Beneficiary*, GoFundMe, <https://support.gofundme.com/hc/en-us/articles/204993267-How-do-I-send-the-funds-to-someone-else-US-Only-> (last visited Nov. 10, 2017). Perma.cc/9MV8-VDBC

201. *Id.*

202. *Id.*

203. See *supra* Part VII.C.

204. See *supra* Part I.

205. See *supra* Parts I–VII.

206. See *supra* Part VIII.A–B.

A. Answering Questions Posed in Preface

The first question posed at the end of the Preface to this comment was whether Norma's estate or Chris should receive the leftover money from the crowdfunding campaign when Norma passed away.²⁰⁷ This will depend entirely on how Chris decided to set up the crowdfunding campaign when he indicated whether or not the beneficiary was someone other than himself.²⁰⁸ If Chris set up the campaign to have all funds deposited into his personal bank account, and then he was personally giving those funds to Norma, it seems Chris would have no obligation to give the remaining funds to Norma's estate.²⁰⁹ If instead Chris had set up the crowdfunding account to have all donations directly deposited into Norma's personal account, Chris would have no claim to the funds and anything leftover would be part of Norma's estate.²¹⁰

The second issue proposed was how Chris passing away during the campaign would affect Norma receiving donations.²¹¹ Again, if Chris had set up the campaign to automatically deposit funds into Norma's account, Norma would continue receiving donations so long as the campaign remained active online.²¹² However, if Chris was personally receiving the funds, then Norma may face greater difficulty claiming title to the donations.²¹³ If Chris did not indicate that there was a beneficiary when he established the campaign, Norma likely has no claim to the money.²¹⁴ In the event that Chris did indicate that there was a beneficiary other than himself, but opted to deliver the funds to the beneficiary personally, Norma may be able to claim a right to the funds if she and Chris had executed a separate right of survivorship agreement.²¹⁵

The third hypothetical addressed what would happen had either party undergone a divorce proceeding during the crowdfunding campaign.²¹⁶ Regardless of who was receiving the funds, it is unlikely the funds would be considered community property subject to division in a divorce proceeding.²¹⁷ Basic language in the crowdfunding campaign should suffice in proving the crowdfunders intended their contributions to be gifts.²¹⁸

207. *See supra* Part I.

208. *See supra* Part VII.E.

209. *See* TEX. EST. CODE ANN. § 111.002 (West 2014).

210. *See id.*

211. *See supra* Part I.

212. *See supra* Part VII.E.

213. *See supra* Part VII.E.

214. *Compare supra* Part VII.E, *with* TEX. EST. CODE ANN. § 111.002 (West 2014).

215. TEX. EST. CODE ANN. § 111.001 (West 2014).

216. *See supra* Part I.

217. *See supra* Part VI.A.

218. *See supra* Part VI.A.

Therefore, the funds should be considered separate property and would remain either Chris or Norma's property through divorce.²¹⁹

B. General Suggestions to Minimize Risk

One of the best ways to minimize the risk of issues with crowdfunding is to ensure people know about the campaign.²²⁰ If family members are aware of the campaign then they can begin the journey of recovering funds from the campaign if necessary.²²¹ It is likely the campaign owner has set up automatic withdrawals from the crowdfunding campaign into a personal bank account prior to death, in which case the executor can easily gain access to the decedent's bank account and withdraw the funds.²²²

If the campaign owner had yet to setup automatic withdrawals, the executor has two ways of accessing the funds.²²³ First, the executor can simply login if the campaign owner has left a username and password.²²⁴ If the executor, or other family member, does not have the password then the executor can contact the crowdfunding platform, determine which payment processing company the platform uses, and then contact the processor to attempt to access the funds.²²⁵ Because these third-party companies are financial institutions and hold the funds in a pooled account, the executor should be able to access the funds using a probated will and death certificate.²²⁶ This must be completed quickly, however, because many crowdfunding platforms automatically refund crowdfunders if the campaign owner does not make a withdrawal within sixty days.²²⁷

IX. CONCLUSION

While the issues surrounding crowdfunding seemed complicated at first, the solutions to most problems can be easily resolved.²²⁸ In most cases a deceased campaign owner will have already set up automatic withdrawals from the crowdfunding account into their personal bank account.²²⁹ In these situations the executor can easily access a bank account with a probated will and death certificate.²³⁰ If the situation arises in which the campaign owner

219. *See supra* Part VI.A.

220. *See supra* Part VI.D.

221. *See supra* Part VI.D.

222. *See supra* Part VI.D.

223. *See supra* Part VII.

224. *See supra* Part VII.

225. *See supra* Part VII.D.

226. *See supra* Part VII.D.

227. *See supra* Part VII.D.

228. *See supra* Parts I–II.

229. *See supra* Part VII.

230. *See supra* Part VII.

has not established automatic withdrawals, the executor will either need the password to access the crowdfunding account or a probated will and death certificate to access the financial institution the crowdfunding platform uses.²³¹

In the event of a divorce, the donations made by crowdfunders will almost certainly be considered gifts in Texas. Gifts are separate property in Texas, but the intent of the donors is necessary to establish that the donations were, indeed, gifts.²³² The most effective way to establish this intent is to have language on the crowdfunding campaign page indicating that all donations are gifts.²³³ By advising clients about the type of language they should use—or avoid—on their campaign page, along with urging clients to establish direct deposits as soon as possible (or provide their username and password to someone they trust), avoiding property and estate issues in crowdfunding should be easily attainable.²³⁴

231. *See supra* Part VII.

232. *See supra* Part VI.

233. *See supra* Part VI.

234. *See supra* Part VIII.