



A Brave New World:
Strategic and Legal Issues
for Today's Non-Profit

LUNCH AND LEARN
TUESDAY, SEPTEMBER 12TH

IDEA CENTER AT PLAYHOUSE SQUARE
1375 EUCLID AVE, CLEVELAND, OH 44115
11:30-2:00PM | \$15 PER ATTENDEE



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We Solve Problems.

***A Brave New World:
Strategic & Legal Issues for Today's Non-Profit***

CROWDFUNDING

The New Frontier in Fundraising



**THE
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What is “crowdfunding”?

- **Crowdfunding** is “the practice of getting a large number of people to each give small amounts of money in order to provide the finance for a business project, typically using the internet.”

Source: The Cambridge Dictionary (<http://dictionary.cambridge.org/dictionary/english/crowdfunding>)

- **Peer-to-peer** fundraising, in the nonprofit sector, is “a method of fundraising that leverages your supporters to fundraise on your behalf. It’s also known as social fundraising, personal and/or team fundraising, or p2p fundraising.”

Source: CauseVox (<https://www.causevox.com/blog/peer-to-peer-fundraising-primer/>)



What is “crowdfunding”?



Type	Description	Examples of Platforms
Peer to Peer (lending)	Lending for small businesses	Lending Club
Real Estate	Similar to REIT	Realty Mogul, RealtyShares
Rewards-Based	Products/services, creative projects, inventions	Kickstarter, Fundable
Title III & Reg CF	Equity or Debt	DreamFunded, FlashFundors
Personal Cause	Medical expenses or other hardships	GoFundMe, YouCaring
Non-Profit	Donations for projects or initiatives	Crowdrise, CauseVox, Razoo, IOBY



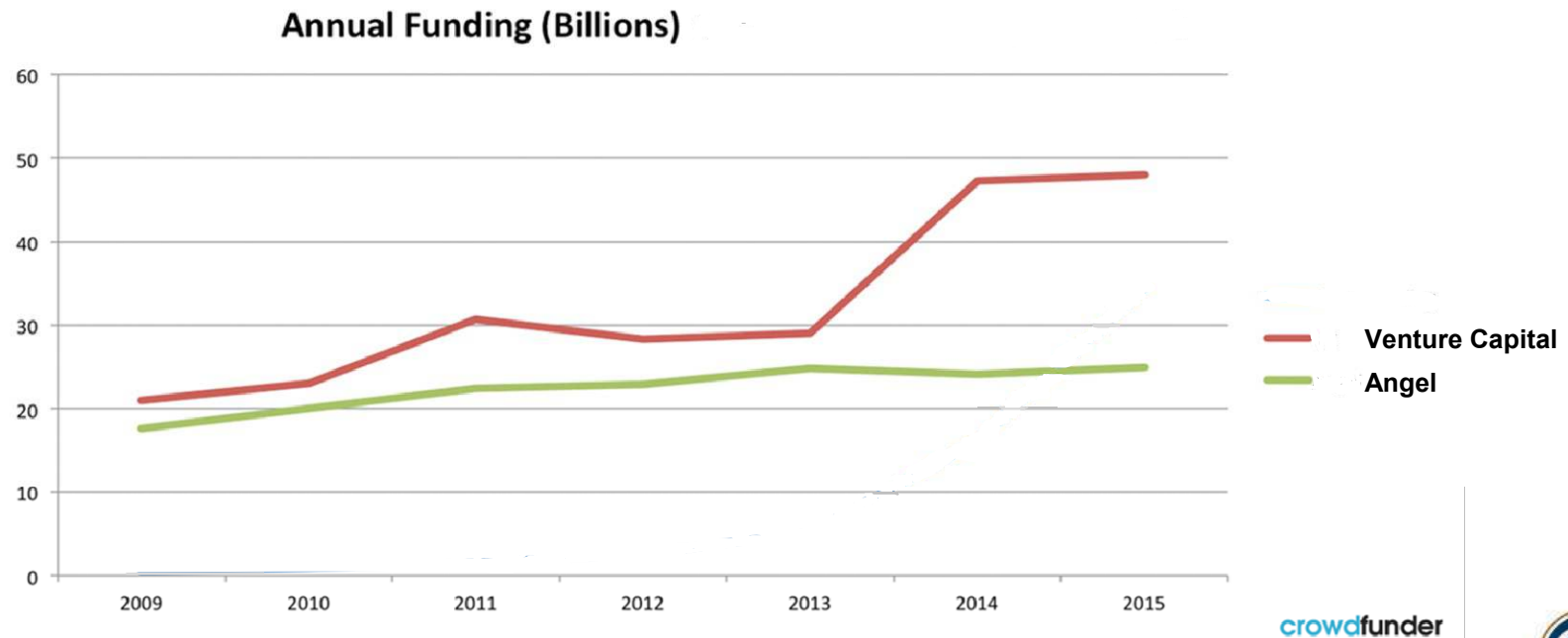
Crowdfunding – Why?

Benefits of Engaging in a Crowdfunding Campaign

- Grow your support base; attract corporate sponsors/attention
- Increase your visibility from local to regional, or from regional to national
- Fundraise efficiently by leveraging technology and social media
- Assess and evaluate public interest – learn what works and what doesn't
- Don't be left behind...



Growth in Venture Capital & Angel Funding

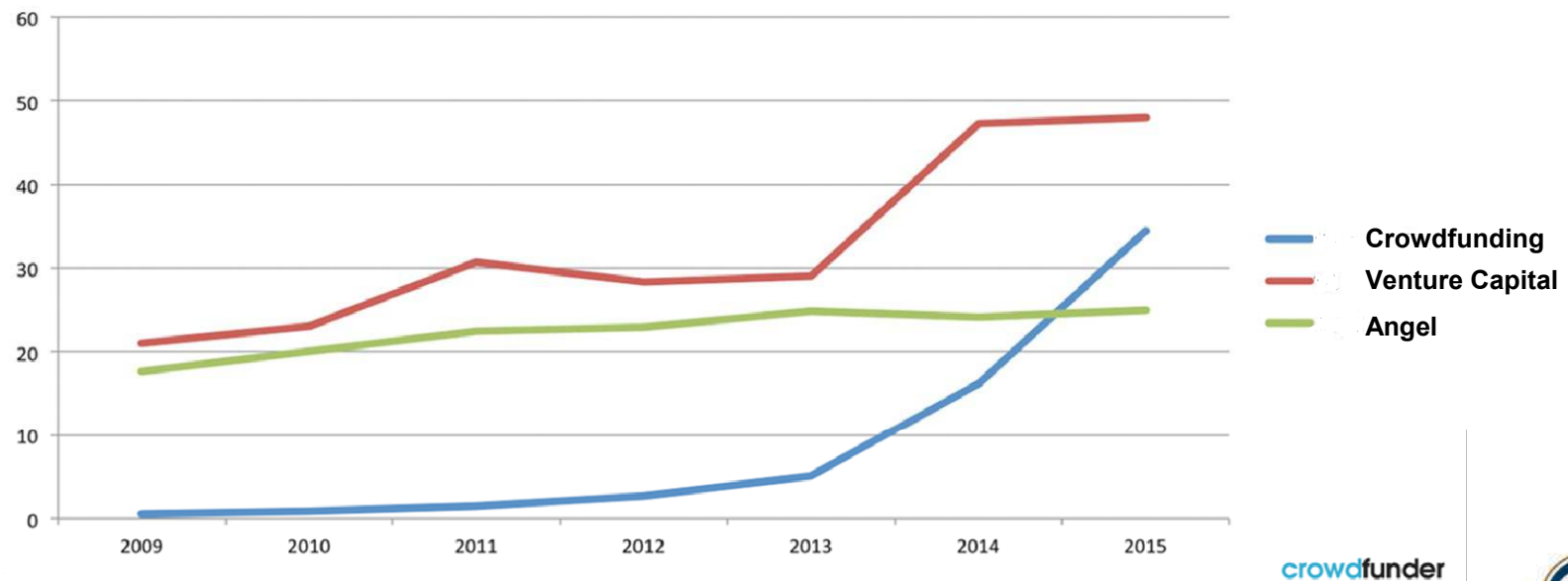


Source: *Crowdfunding Industry Overtakes Venture Capital and Angel Investing*, Louis Emmerson, July 8, 2015
http://blog.symbid.com/wp-content/uploads/2015/07/Crowdfunding_vsVC_vsAngelInvestors.png



...and then there's crowdfunding.

Annual Funding (Billions): VC vs. Crowdfunding vs. Angel

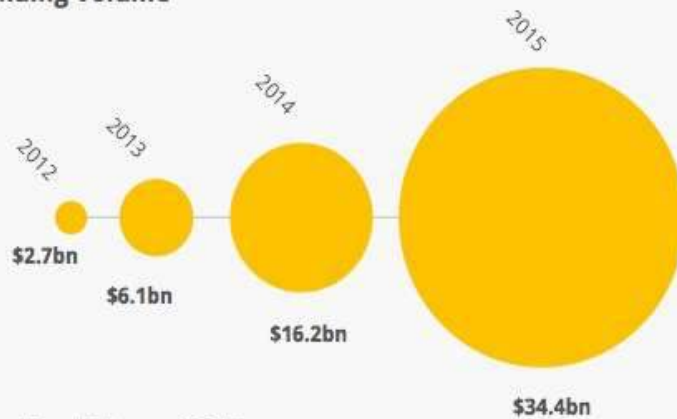


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crowdfunder



Total Funding Volume



Total Funding Volume: 2015

\$34.44bn



Growth by crowdfunding model prediction for 2015 in millions of USD (research based estimate).

Bold predictions for growth in crowdfunding are coming true.

Source of Infographic: Massolution 2015CF, cited in the article Crowdfunding Industry Overtakes Venture Capital and Angel Investing, Louis Emmerson, July 8, 2015. (http://blog.symbid.com/wp-content/uploads/2015/07/Crowdfunding_vsVC_vsAngelInvestors.png)



Crowdfunding – How?

Many campaigns fail. Here are some ways not to...

- **Planning** – start 3+ months in advance
- **Storytelling** – choose the tone and content of messaging thoughtfully.
 - Focus on the donor and what can be accomplished with their donation.
 - Don't focus on your organization, facts and figures. Past accomplishments? Maybe, but even these usually aren't the most persuasive thing to lead with.
- **Communicate**
 - Videos really work, and they don't need to be long
 - Broadcast benchmarks and progress
 - Say "thank you"



Crowdfunding – How?

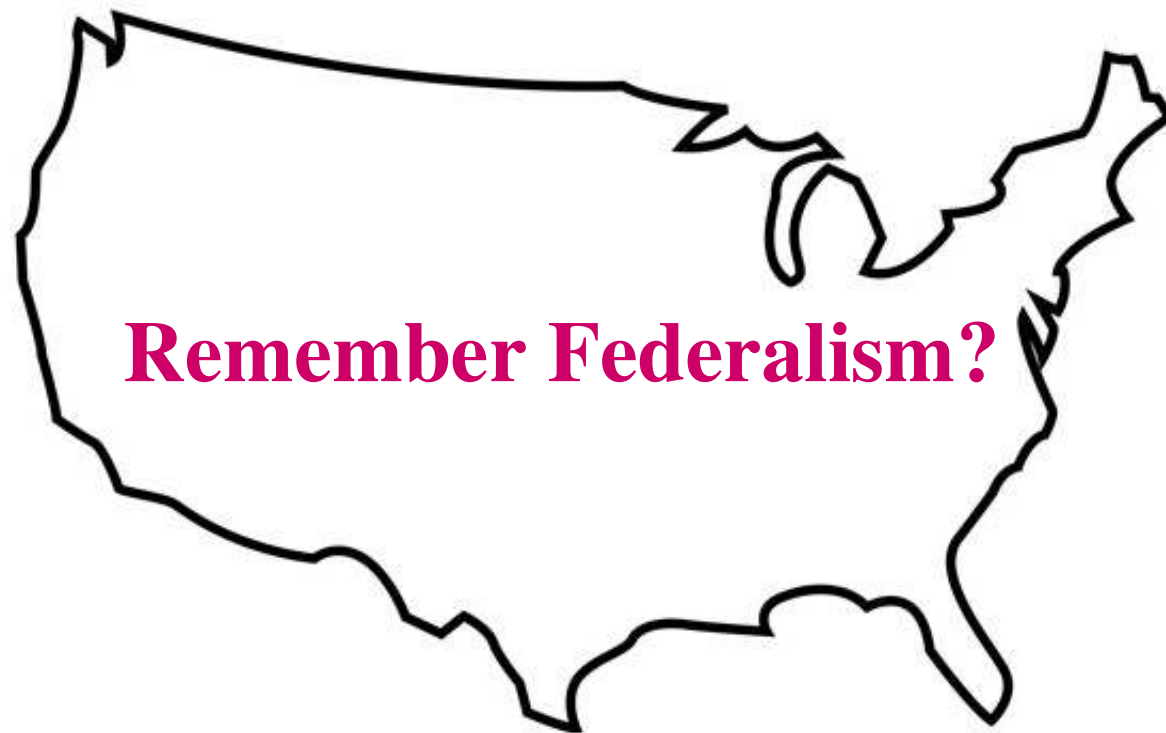
Choosing a Platform

- Is the platform nonprofit-friendly?
- Is there an all-or-nothing requirement?
- Platform and processing fees?
- Time limits on campaigns?

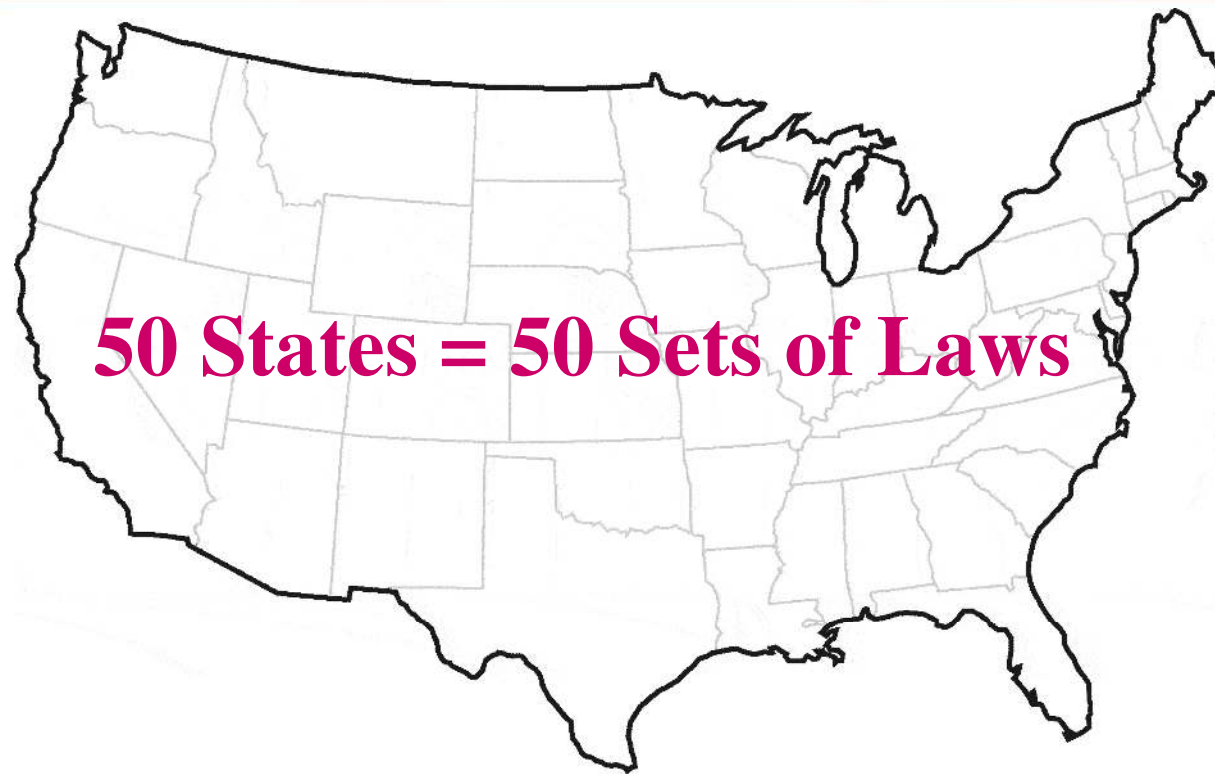
And now the legal issues...



Crowdfunding – How?



Crowdfunding – How?



Charitable Solicitation Registration Requirements

*~ Welcome to **Cyberspace**...please pay the toll.*



- **Filings and Fees:** Crowdfunding may subject you to the charitable solicitation registration requirements (and related fees \$\$) of other states.
- **Fines/Penalties:**
 - Vary depending on the state, but...
 - ~\$1,000 to \$5,000
 - Might be imposed on a per offense basis in some states



Charitable Solicitation Registration Requirements

~ *But there are **workarounds**.*

- **Charleston Principles** (visit www.nasconet.org, National Assoc. State Charity Officials)
 - 1) specifically targets persons in the state or receives contributions from persons in the state on a repeated and ongoing or substantial basis through or in response to website solicitations, OR
 - 2) its non-internet activities alone would require registration in the state
- **Unified Registration Statement** (Form URS)
 - Visit <http://multistatefiling.org/>
 - Accepted in many states, but not all.
- **Exceptions to Registration Requirements**
 - Educational institutions, hospitals, etc.
 - De minimis



Crowdfunding – How?

Other Legal and Practical Issues

- Intellectual Property and Social Media
 - Potential for infringement is ever present in marketing materials
 - Consider adopting a crowdfunding/social media policy prior to launching a campaign
- Commercial Co-Ventures (or “Cause Marketing”)
 - Contract issues (term, termination, pricing, IP licensing, indemnification, prior approvals of marketing materials or other business activities)
 - IRS issues (joint venture rules, UBIT)



Legal Issues for Donor-Directed Gifts

- Complying with the donor's requirements
 - Where are the requirements? (trust documents, letter, gift agreement, memo line of check, napkin?)
 - Document requirements internally and communicate to staff
 - Have a covenant compliance record/database and review/audit process
- Consequences of non-compliance
 - Cy Pres doctrine; potential legal/administrative proceeding involving attorney general
 - Relationship with donor is impaired or lost entirely



Crowdfunding Bill of Rights* (best practices)

We the people, who are asked for money, hereby resolve that crowdfunding sites will:

- **Show a Clear Connection:** What's the relationship of the people raising money to the project? This should be clearly evident and endorsed by the group.
- **Explain About The Benefitting Organization(s):** Information about the organization benefiting should be easily available, with info or links to site, leadership, key projects, and verification of legitimacy of nonprofit status.
- **Provide Fee Transparency:** Be upfront about the fees that may be associated with the platform and the project.
- **Report Back:** Show impact on the charitable giving. Report back. On a regular basis. At the minimum the project leader should provide monthly updates.
- **Provide Clear Timelines:** Post regular updates on how the project being funded is progressing (toward the goal or otherwise) or when work will take place.

***Source:** *Crowdsourcing: Donors Are Confusing Fundraising With Funding*, by Mark Hrywna, May 30, 2014.
(<http://www.thenonproffitimes.com/news-articles/crowdsourcing-donors-confusing-fundraising-funding/>)



Crowdfunding Bill of Rights* (cont'd)

- **Have a Lemon Policy:** Spell out what happens if the project doesn't meet its goal.
- **List Your Disclaimer Clause:** Explain and disclose any kind of moral imperative considerations that might go into funding the project. Define what is tax-deductible and what's not. Make sure you are clear about fair market value of any incentives or offers.
- **List Risks and Benefits:** Make sure there are clear disclaimers about the possible risk of the project, from a financial and outcome perspective. Be clear about benefits to backer, society and beyond.
- **Go Beyond the Ask:** Explain how donors can get involved with the organization beyond just writing a check. Coding, Volunteering, Board of Advisors?
- **Offer Perks or Prizes:** Clearly define what donors or participating funds might get by giving at different giving levels or reaching funding milestones and make sure it's followed through on. Make it fun!

***Source:** *Crowdsourcing: Donors Are Confusing Fundraising With Funding*, by Mark Hrywna, May 30, 2014.
(<http://www.thenonproffitimes.com/news-articles/crowdsourcing-donors-confusing-fundraising-funding/>)



Crowdfunding for Nonprofits

Thank You!

Resources you may find helpful:

- IOBY (www.ioby.org)
- Good Cause Creative, LLC (www.goodcausecreative.com)
- National Council of Nonprofits – crowdfunding page (www.councilofnonprofits.org/tools-resources/crowdfunding-nonprofits)
- National Association of State Charity Officials (www.nasconet.org)
- MobileCause – comparative statistics for different giving methods, i.e. events vs. crowdfunding vs. other online giving (<https://www.mobilecause.com/statistics/>)



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