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RE: BBB Case # 10722041

Dear Marietta,

We respectfully disagree with the assertions put forward by Mr. Bilger in Case #10722041.

Mr. Bilger participated in backing a Kickstarter crowdfunding project. This entitles him to certain pre-determined *rewards* when the project is finished. We have kept all of our *Kickstarter backers* informed as to the progress of this project, which has suffered a number of delays from our original expectations. That said, there was never an exact release date (that's not how *Kickstarter* works; you back a project, not purchase a product), and we have never stopped working to achieve the goals of said *Kickstarter-funded* project.

As the customer should know, *Kickstarter* projects often deliver promised *rewards* well after their initial estimated dates. Under the terms of *Kickstarter*, as long as we are actively making this product (which we are; *Wave One* items have already been delivered, and *Wave Two* is under active development), and communicating with the backers to let them know where things stand (we have posted 17 Updates in the last six months, in addition to our own weekly e-mailings which often include *Kickstarter* updates), we are in FULL COMPLIANCE with the *Kickstarter* rules.

From the *Kickstarter* Terms of Use at <http://www.kickstarter.com/terms-of-use/oct2012>:

*"Kickstarter is a platform where Project Creators run campaigns to fund creative projects by offering rewards to raise money from Backers."*

*"The Estimated Delivery Date listed on each reward is not a promise to fulfill by that date, but is merely an estimate of when the Project Creator hopes to fulfill by."*

From Kickstarter's FAQ at <http://www.kickstarter.com/help/faq/kickstarter+basics>:

*"It's not uncommon for things to take longer than expected. Sometimes the execution of the project proves more difficult than the creator had anticipated. If a creator is making a good faith effort to complete their project and is transparent about it, backers should do their best to be patient and understanding while demanding continued accountability from the creator."*

We have never made any attempt to make our backers believe that the Robotech RPG Tactics Kickstarter campaign was "essentially a pre order" as Mr. Bilger claims. Kickstarter is not a store, and their fund-raising campaigns are not sales nor mechanisms for taking pre-orders. There are always risks, and often unexpected delays and problems. Mr. Bilger pledged money to a project whose intention was to create a new product line. In exchange for that support, he is to receive rewards as outlined during the Kickstarter campaign. He received Wave One of those rewards last year, and we are actively working towards the production of Wave Two.

Mr. Bilger did request a refund in June of 2014. I am sorry to say that we must not have seen his request at that time. If we had, we would have notified him that we were not offering refunds. By Kickstarter's terms of service, project creators are not required to grant refunds.

From the Kickstarter Terms of Use at <http://www.kickstarter.com/terms-of-use/oct2012>:

*"Kickstarter does not offer refunds. A Project Creator is not required to grant a Backer's request for a refund unless the Project Creator is unable or unwilling to fulfill the reward."*

At that time, Wave One rewards were about to go into manufacturing. We were not only willing and able, but actively in the process of fulfilling the rewards in question.

The rewards that Mr. Bilger has received thus far have a total retail value of \$785.10. The items he is still waiting for have a total retail value of \$766.15. By that measure, he has received slightly more than 50% of his total rewards. In terms of the sheer number of game pieces, he has received 138 so far (in addition to two copies of the full game rules, dice, and other accessories; everything he needs to play the game), and has only 62 additional game pieces remaining to be delivered in Wave Two. For him to say he is still waiting for us to deliver about 2/3 of the product we promised him is an exaggeration by any measure.

In the 26 months since the funding period of this Kickstarter campaign ended, we have

posted 87 Updates, an average of more than three per month. There have been 17 Updates in the last six months alone. And both of these numbers are just those Updates posted on Kickstarter's website itself; they do not include our own weekly e-mailings which often contain Kickstarter campaign updates. Mr. Bilger's claim that we have not provided any information in the last six months is simply untrue.

In conclusion, Mr. Bilger did not order a product, but rather financially backed a project in exchange for the promise of a reward when the project was completed. He was well aware that it could take some time for the project to be finished. We have kept all of our backers informed throughout this process. He received more than half of his rewards last year, and will receive the rest when they have been manufactured.

We sympathize with his frustration over how long it is taking to deliver the rest of the rewards; we're frustrated, too. But there have been a number of unforeseen difficulties with engineering and production on this project, as we have explained to our backers on a number of occasions.

We are working to fulfill our Kickstarter campaign and deliver all remaining rewards to our backers. By Kickstarter's Terms of Service which Mr. Bilger agreed to when he created his Kickstarter account and backed our Kickstarter campaign, we are not obligated to grant him a refund:

Sincerely,

  
Kevin Siembieda

Publisher/Owner, Palladium Books Inc.