

## **A derailment in Guatemala**

By Bill Steigerwald | TRIBUNE-REVIEW

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Henry Posner III knew resurrecting Guatemala's national railroad would be a tough haul. The Pittsburgh entrepreneur — one of the world's experts in managing privatized Third World railways — also knew doing business with the corrupt government of Guatemala would be a financial crap shoot.

But now, after nearly 10 years of operating the country's only railroad, Posner says he is being forced to go to international arbitration to prevent the Guatemalan government from stealing his small company's assets and "putting us out of business."

Posner is used to dealing with shady countries where the rule of law is a joke or highly elastic.

Since 1991, his Green Tree-based global railway management and investment company, Railroad Development Corp. ([RRDC.com](http://RRDC.com)), has successfully privatized government-wrecked freight lines in Argentina, Peru, Malawi and Mozambique. Guatemala has always been RDC's problem child.

When RDC won a 50-year operating concession from the government in 1997 to resuscitate Ferrovias Guatemala, the country's 500-mile rail system, it wasn't taking over just another rundown Third World government railroad.

Ferrovias Guatemala wasn't merely bankrupt and bloated with overpaid employees. It no longer functioned at all. Its rolling stock and buildings were a shambles. Squatters lived on its tracks.

Despite a series of damaging hurricanes and floods, RDC's crack American management team slowly got 200 miles of track up and running.

Hauling bulky things like bananas, steel and paper products between Guatemala City and the Caribbean, the no-frills railway was breaking even by spring 2005, when I rode on it and saw its operations.

Today, however, the unsubsidized railroad is bleeding money, losing customers and having trouble getting credit, Posner said Tuesday from Guatemala City. The losses are a direct result of attempts by the government to "confiscate" his company's assets, he said.

Under RDC's original business plan, money for rebuilding infrastructure was to come from leasing the railroad's real estate assets and using rights of way for things like electricity distribution. But Posner said that plan has been deliberately ruined by Guatemala's corrupt system of government.

Since he can't trust Guatemala's legal system, Posner says he must appeal to a higher court. On Tuesday, RDC formally announced it intends to file for arbitration under CAFTA, the Central America Free Trade Agreement.

"I predict we will win," Posner said, adding that this will be the first test to see if CAFTA's protections for foreign investors have teeth. "If we do win, then we will have made a major blow for the rule of law and

## **A derailment in Guatemala** (cont'd.)

transparency in Guatemala, a country that desperately needs foreign investment and, in particular, infrastructure."

Despite the prospect of an expensive, protracted legal fight, Posner said he won't do what he says Guatemala's government hopes he'll do — give up and go away. Guatemalan officials in Washington and Guatemala City could not be reached for comment.

Anyone who knows Posner knows quitting is the last thing he'll do. He's an honorable, unapologetic capitalist. But the money and time he's invested in Guatemala was never about business or profits. It's really about Posner's lifelong passion for railroads and his desire to do something good for Guatemala that no one else would or could — bring its ruined railroad back to life and make it run on time.

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