

Bankruptcy trustee questions STATA's financial dealings

By Kathryn Reed

Another deadline looms next week in the multi-million dollar South Shore transportation lawsuit, with a decision possible in November to dismiss or have the case litigated.

Fairfield-based MV Transportation, which once ran the BlueGo bus system, sued the nonprofit South Tahoe Area Transit Authority in 2010 for a number of reasons; most having to do with not being paid the nearly \$3 million it claims it was owed. STATA then filed for bankruptcy and has since disbanded and essentially merged with Tahoe Transportation District.

MV Transportation has until Sept. 7 to revise its complaint, with the defendants then being able to respond before the judge acts in mid-November.



Transit on the South Shore continues along a bumpy legal road. Photo/LTN

David Thompson, who was appointed by U.S. Bankruptcy Court Judge Gregg Zive to review all the documents (12 drawers of paper files and more than 16,000 emails) pertaining to the case, does not understand how the STATA board continued operations when the expense to do so was more than the revenue

being generated.

In the participation agreement paragraph 5.11 states: "... that if revenues fall short, the directors shall reduce the levels of service unless the parties (participating members) mutually agree to make additional contributions."

Service was not cut and additional contributions were not made.

Thompson, who was appointed in August 2011, has prepared three reports for the court, with the latest coming out this summer.

In part he writes, "From the start, the operating revenues generated from cash fares, members contributions and operating grants were insufficient to cover operating costs. This resulted in STATA being constantly short of cash and having to issue a note payable to MV Transportation for \$825,000 covering the initial start up months of operation. Operating shortfalls continued for several years reaching over \$2 million. MV was terminated on June 20, 2010. ... None of the participating members paid the operating shortfall as required in the bylaws. TTD confiscated the assets, grants and contracts of STATA, gutting the organization and leaving no means to pay the creditors."

South Lake Tahoe City Attorney Patrick Enright disagrees with Thompson's assessment. He said the city only had to contribute what it received from the state and federal government for transportation, nothing more.

It has cost South Lake Tahoe more than \$75,000 to pay attorney Lou Bubala of Reno to represent the city at the Reno bankruptcy hearings. That amount does not take into account Enright's time. The city's portion of the nearly \$3 million is about \$600,000.

Each defendant is represented by separate legal counsel, so the cost of the case continues to escalate at a greater rate

than if they had the same attorney. If they lose, the parties are also likely to incur MV's legal costs, the fees of the trustee, as well as penalties beyond the \$3 million MV is claiming it is owed.

The defendants in the case are:

- STATA
- Tahoe Regional Planning Agency
- Douglas County
- South Lake Tahoe
- Heavenly Mountain Resort
- Tropicana Entertainment
- Harrah's Operating Company
- Harvey's Tahoe Management Company
- Lakeside Inn
- Horizon Casino
- Lake Tahoe Casino Realty
- Columbia Properties Tahoe
- Ridge Tahoe Property Owners Association
- Tahoe Transportation District.

Early on El Dorado County worked out a deal with MV.

"In October 2010, El Dorado County settled with MV Transportation for \$160,000 because MV has a rock solid case against STATA's member agencies. As the bankruptcy trustee points out, member agencies have a clear obligation of make additional contributions to STATA if STATA operates at a

deficit,” county Auditor Joe Harn told *Lake Tahoe News*. “Because the TRPA staff gave the STATA board horrible advice, STATA operated at a huge deficit. The TRPA staff also wasted a lot of El Dorado County staff time. On at least three occasions, the TRPA staff recommended unlawful allocation instructions to the TRPA board. We spent a lot of time on conference calls explaining the fundamentals of the California Transportation Development Act to the TRPA staff.”

The Tahoe Regional Planning Agency is an integral part of this because the Tahoe Transportation District was created by TRPA. Beyond that, TRPA first hired John Andoh to handle the transit system. And while the STATA bylaws require an executive director to run the operation, it never had one. Andoh was a transit administrator.

STATA was the name given to the group in 2008. Originally it was called Tahoe Coordinated Area Transit when it was formed in 1998 as a coordinated transit system on the South Shore.

Mike Bradford, president of Lakeside Inn Casino in Stateline, acknowledged it was a tough sell at the time to get the casinos to give up their individual bus routes, but the thinking was that to be a destination resort, the South Shore needed to be able to move people around.

It has never worked the way people envisioned. Part of it has to do with inconsistent and constantly changing routes and fares, the inability to balance the needs of locals and visitors, and that marketing for the bus system has failed miserably. After all, bus signs don't even have a bus symbol and most are not sheltered.

Bradford is frustrated MV has alleged the STATA members conspired against the transit agency.

“They are so off the mark,” Bradford told *Lake Tahoe News*. “MV knew service levels exceeded the entities' ability to pay. When all the accumulated fees came to light, the STATA board

said we can't pay now. We said we would pay over time."

Lakeside Inn officials said they tried to settle with MV using the same formula El Dorado County used, but said MV denied that request.

Jessica Woelfel, attorney for MV, said she had no comment at this time.