



**STORAGE NAME:** h7131.JDC

**DATE:** 2/24/2012

### Florida House of Representatives Summary Claim Bill Report

**Bill #:** HB 7131      PCB JDC 12-04; Relief/Irving Hoffman and Marjorie Weiss/City of Tallahassee

**Sponsor:** Judiciary Committee, Julien

**Companion Bill:** SB 44

**Special Master:** Tom Thomas

#### Basic Information:

**Claimants:** Irving Hoffman and Marjorie Weiss

**Respondent:** City of Tallahassee

**Amount Requested:** \$2,400,000

**Type of Claim:** Local equitable claim; result of a settlement agreement.

**Respondent's Position:** The City of Tallahassee has agreed to support this claim bill.

**Collateral Sources:** Ms. Weiss received \$100,000 from a life insurance policy she had on her daughter.

**Attorney's/Lobbying Fees:** The Claimant's attorney provided an affidavit stating that the attorney's fees will be capped at 25% of the total claim award in accordance with s. 768.28(8), F.S., and that the lobbyist's fees, if any, will be included in the 25% fee cap.

**Prior Legislative History:** In 2009, SB 66 by Senator Lawson and HB 1535 by Representative Gibbons were filed, but never considered. In 2010, SB 24 by Senator Lawson was filed, but never considered. In 2011, SB 68 by Senator Fasano was filed, but never considered.

**Procedural Summary:** A tort claim was filed on behalf of the Claimants in the Circuit Court of the Second Judicial Circuit of Florida. After jury selection, but prior to trial, the parties settled this matter on January 6, 2012. The settlement was in the amount of \$2,600,000, and the City of Tallahassee has already paid a total of \$200,000 pursuant to the statutory limit of s. 768.28, F.S.

**Facts of Case:** Rachel Hoffman was a 23 year old, recent graduate of Florida State University, and living in Tallahassee, Florida, when she agreed to become a confidential informant for the

## SPECIAL MASTER'S SUMMARY REPORT--

Page 2

Tallahassee Police Department (the Department). At the time, she was a participant in a drug court intervention program for possession of marijuana when, on April 17, 2008, the Department conducted a search of her apartment and found approximately 5 ounces of marijuana and six nonprescribed pills. Facing serious felony charges, she agreed to becoming an informant. Irving Hoffman and Marjorie Weiss are Rachel Hoffman's parents.

The supervising case manager for the Department and Ms. Hoffman developed a plan whereby she would purchase 1,500 MDMA pills, also known as Ecstasy, 2 to 3 ounces of cocaine, and a weapon from Andrea Green and Deneilo Bradshaw, with whom she had no previous contact or dealings. Ms. Hoffman had never purchased cocaine, did not have a history of dealing in cocaine or MDMA, had no experience with a firearm, had never been involved as a confidential informant, and had never been involved in a controlled buy-bust operation. The Department did not conduct a dry run of the area of the operation before it occurred, so Ms. Hoffman was unfamiliar with the geographical area that had been designated for this controlled buy-bust operation. Ms. Hoffman was assured by the Department that she would be watched and listened to at all times, and that when the buy was made, the police would immediately respond and arrest the targets and rescue her from danger.

The original plan was that a controlled buy would take place at a designated location at a private home in a large subdivision off North Meridian Road, but after the briefing and just prior to leaving the police station, the location was changed by the targets, Greene and Bradshaw, to Forest Meadows Park, on North Meridian Road. Upon arriving near the Forest Meadows Park, Ms. Hoffman mistakenly turned into the baseball fields, not the tennis court parking area where the arrest teams were positioned. She was redirected to the tennis court parking area when the Department lost visual sight of her and the listening device in her car ceased to function. It was at this time the targets again changed the meeting location from the park to a nearby plant nursery parking lot north of the park on Meridian Road and outside the city limits.

Ms. Hoffman had no way of knowing that none of the officers were watching or listening to her. The targets kept Ms. Hoffman on her cellular phone, directing her to another location, Gardner Road, which was north of the plant nursery and outside the city limits. By the time law enforcement personnel arrived at the Gardner Road location, Ms. Hoffman and the targets were no longer there, but officers did find two live .25 caliber rounds, one spent .25 caliber round, and tire marks. Hours later, Ms. Hoffman's cellular phone was found in a ditch miles away from the Gardner Road location. Two days later, Rachel Hoffman's body was found near Perry, Florida, approximately 50 miles away, shot multiple times.

An Internal Affairs investigation by the Department determined that numerous violations of its policies and procedures had occurred in the planning, supervision, and execution of the operation which led to the murder of Rachel Hoffman. Police Chief, Dennis Jones, stated that the investigator responsible for managing the operation should have terminated Rachel Hoffman's confidential informant service well before she participated in the operation.

On August 1, 2008, a Leon County Grand Jury returned indictments against Green and Bradshaw for the murder of Rachel Hoffman. In addition to the indictments, the Grand Jury issued an ancillary report (called a Presentment) and concluded that:

During the course of our review of the facts, it became apparent to us that negligent conduct on the part of the Tallahassee Police Department and D.E.A. attributed to Ms. Hoffman's death... We believe the command staff was negligent in its review of the OPS plan and supervision of this Transaction... Letting a young, immature woman get into a car by herself with \$13,000.00, to go off and meet two convicted felons that they knew were bringing at least one firearm with them, was an unconscionable decision that cost Ms. Hoffman her life... [T]hrough poor planning

SPECIAL MASTER'S SUMMARY REPORT--

Page 3

and supervision, and a series of mistakes throughout the Transaction, T.P.D. handed Ms. Hoffman to Bradshaw and Green to rob and kill her as they saw fit... [S]he should never have been used as a Confidential Informant. But if they were going to use her, they certainly had a responsibility to protect her as they assured her they would... In violation of the T.P.D. Policy on Buy-Bust operations, the T.P.D. allowed the suspects to set the location of the Buy-Bust. This operation violated practically every provision of the policy.

Andrea Green and Daneilo Bradshaw are both serving life sentences for the murder of Rachel Hoffman.

The City provided testimony that it has set aside the funds for this claim and payment will not negatively affect their operating budget.

**Recommendation:** I respectfully recommend this claim be reported **FAVORABLY**.

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Tom Thomas, Special Master

Date: February 23, 2012

cc: Representative Snyder, Committee Chair  
Senator Fasano, Senate Sponsor  
Judge John G. Van Laningham, Senate Special Master