

NOTE TO APS: This letter is to reply to a bank which has refused to release records.

APS AGENCY LETTERHEAD

Date

Bank Official's Name and Address

RE: Denial of the attached APS Request for Client Records

Dear [Bank Officer]:

In response to your recent correspondence [phone call/etc.], please note that a careful reading of the Gramm-Leach-Bliley Act makes plain that financial institutions are indeed permitted to release client records without the client's permission and without a subpoena under the following conditions:

15 U.S.C. §6802 - Obligations with respect to disclosures of personal information

(e) General exceptions

Subsections (a) and (b) of this section shall not prohibit the disclosure of nonpublic personal information—

(3)(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law (emphasis added).

Even without client consent, Adult Protective Services (APS) is authorized under these provisions to obtain a bank customer's records in the course of investigating financial abuse of an older or vulnerable adult, because APS falls under the law's exceptions in that:

1. Its purpose in viewing the records is to "*protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability*"; and
2. APS is authorized under state law to carry out civil investigations of elder/vulnerable [dependent, at-risk] adult abuse, neglect and financial exploitation [insert state statute citation and language from back of form].
3. The requirement for a subpoena is an alternative and not a requirement when complying with a properly authorized civil investigation, to wit: "*to comply with a properly authorized civil . . . investigation OR subpoena OR summons*" (emphasis added).

In light of the clear language in GLBA and APS's statutory authority to conduct a "properly authorized civil . . . investigation", please comply with the attached request for records in the timeframe specified.

Thank you. Working together we can better protect the assets and well-being of our mutual client.

Sincerely,

[Signature]

[Your name]

Supervisor [or other title]

Attach denied Request for Records form.