

NOTE TO APS: This letter is to reply to a financial institution or professional who has refused to release records.

Agency letterhead

Date

Financial Institution's Name and Address

RE: Denial of the attached APS Request for Client Records

Dear [Financial Services Professional]:

In response to your recent communication, please note that a careful reading of the Gramm-Leach-Bliley Act makes clear 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 customer's financial records in the course of investigating financial exploitation 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", as well as the immunity provided under the federal Senior Safe Act signed into law in 2018, 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]

[Title]

Attach denied Request for Records form.