



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

John Dilorio

Complainant(s)

Notice of Meeting

against

Docket #FIC 2024-0467

Commissioner, State of Connecticut, Department of Banking; and State of Connecticut, Department of Banking

Respondent(s)

July 10, 2025

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

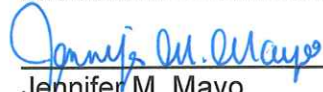
This will notify you that the Commission will consider this matter for disposition at its meeting which will be held **in person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **2:00 p.m. on Wednesday, July 23, 2025.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE July 17, 2025.** Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE July 17, 2025.** **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE July 17, 2025** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission



Jennifer M. Mayo
Acting Clerk of the Commission

Notice to: Attorney Alexa T. Millinger
Attorney John Langmaid

FIC# 2024-0467/IIRA/MKS/DLM/JMM/2025-07-10

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

John Dilorio,

Complainant

against

Docket # FIC 2024-0467

Commissioner, State of Connecticut,
Department of Banking; and State of
Connecticut, Department of Banking,

Respondents

July 8, 2025

The above-captioned matter was heard as a contested case on January 16, 2025 and March 27, 2025, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

On February 11, 2025, the respondents filed an Objection to the In Camera Order dated January 21, 2025, contending that the Commission lacks jurisdiction to determine rights of access to the Connecticut Department of Banking records that the respondents allege are confidential pursuant §36a-21, G.S. On March 24, 2025, the undersigned hearing officer overruled such objection.

In their post-hearing brief, the respondents moved for reconsideration of their Objection to Order for In Camera Review of confidential banking records pursuant §36a-21, G.S. Such motion for reconsideration is herein denied.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that the complainant was a principal of 1st Alliance Lending LLC ("1st Alliance"), a corporation that was the subject of investigation and enforcement actions by the respondents relating to its license to conduct business as a mortgage lender in the state of Connecticut. At the time of the second hearing on this matter, the 1st Alliance litigation had been fully adjudicated and all appeals exhausted.
3. It is found that, by email dated April 12, 2024, the complainant sent a records request to the respondents, stating as follows:

I'm sorry you find yourself in this situation. Mr. Chambers, a bad actor in the 1st Alliance case, seems intent on interfering with our

request.

We feel very strongly his involvement in this FOI request is inappropriate.

Mr. Costa and Mr. Cortes are also bad actors in this matter, and should not be involved, in any way, in the review of these documents. If they are, please let us know level of involvement.

If you are rejecting our request to review the 19-0650 in camera documents, we need to amend our request, and ask you to perform a new search as spelled out below.

Here are the search terms:

[a.] For dates May 1, 2019 - August 1, 2019[:]

all email communications to and or from Carmine Costa, Richard Cortes, Amy Grillo, Jorge Perez, Matt Smith, Elaine szymanski [sic.], and Cynthia Antanaitis containing any of the following search terms 1st Alliance, surety bond, bond cancellation, automatic suspension, 36a-490, 36a-492, diiorio, garber, raabe.

[b.] For dates August 1, 2019 - October 4, 2019[:]

all email communications to and or from Carmine Costa, Richard Cortes, Amy Grillo, Jorge Perez, Matt Smith, Elaine Szymanski, and Cynthia Antanaitis containing any of the following search terms: 1st Alliance, Revocation, 36a-490, 36a-492, Diiorio, Garber, Raabe.

[c.] For dates March 1, 2020 - April 15, 2020[:]

all email communications to and or from Carmine Costa, Rich Cortes, Jorge Perez, and Stacey Serrano containing the search terms Charles Clark, Chuck Cross, ramifications, Freedom of Information. ...

4. It is found that, by email dated April 15, 2024, the respondents acknowledged the complainant's request.

5. It is found that the respondents provided the complainant with responsive records on a rolling basis on June 6, 2024, June 7, 2024 and June 14, 2024. It is found that the respondents, in total, provided the complainant with a copy of 7,584 pages of records responsive to the April 12, 2024 request described in paragraph 3, above.

6. It is found that on July 11, 2024, the respondents sent a communication to the complainant through the GovQA portal stating as follows:

The Department of Banking has completed your public records request under the Connecticut Freedom of Information Act (FOIA). We have released all nonexempt and non-confidential records responsive to your public records request R000014-041524 submitted on April 15, 2024. These records are available in the GovQA portal. To view these records, please log-in to the portal and then click *view my request* and *view files*. Based on your latest communications regarding being unable to open some of the records due to the .msg format and your request for .pdf format, the Department has released three (3) PDF Packets in .pdf format of all the non-exempt and non-confidential records responsive to this public records request.

Some documents were withheld because they are confidential banking regulatory records under Section 36a-21 of the Connecticut General Statutes. Some documents have been redacted and/or withheld pursuant to Section 1-210(b) of the FOIA.

Accordingly, our handling of your request is now complete, and the Department considers this matter closed. If you have any questions or concerns, please feel free to contact the undersigned. Let us know if you have any further issues with opening and viewing the records.

(Emphasis in original.)

7. It is found that, by facsimile dated and filed August 9, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the requested records, as described in paragraph 3, above.

Scope of Complaint

8. At the hearing on this matter and in his post-hearing brief, the complainant contended that his complaint to the Commission, described in paragraph 7, above, included a records request that he submitted to the respondents on March 30, 2024 as well as a request he submitted on April 15, 2024, both in addition to the records specifically requested in the April 12, 2024 request. The respondents contended that the sole request at issue in this case is the April 12, 2024 request described in paragraph 3, above, based upon the allegations in the complainant’s August 9, 2024 complaint.

9. The Commission operates within the confines of the FOI Act; General Statutes § 1-200 *et seq.*; and the complementary rules of the Uniform Administrative Procedure Act (“UAPA”), General Statutes § 4-166 *et seq.* *Dep’t of Pub. Safety v. Freedom of Info. Comm’n*, 103 Conn. App. 571, 584 (2007).

10. Under the UAPA, “[i]n a contested case, all parties shall be afforded an opportunity

for hearing after *reasonable notice*;" §4-177(a); and "[t]he notice shall be in writing and shall include... *a short and plain statement of the matters asserted*;" §4-177(b). (Emphasis added.) The UAPA also requires that "[f]indings of fact shall be based exclusively on the evidence and *on matters officially noticed*." General Statutes § 4-177(g). (Emphasis added.) "The right to a hearing embraces not only the right to present evidence, but also *a reasonable opportunity to know the claims of the opposing party and to meet them*." *Leib v. Bd. of Examiners for Nursing of State of Conn.*, 177 Conn. 78, 82 (1979). (Emphasis added.) Compliance with the UAPA notice provisions is a prerequisite to any valid action by an administrative tribunal and the failure to give proper notice constitutes a jurisdictional defect. *Brazo v. Real Est. Comm'n*, 177 Conn. 515, 518 (1979).

11. As a result, the Commission may only adjudicate those issues fairly raised in the complaint to the Commission. *See Carr v. Chairman, Plan. & Zoning Comm'n, Town of Bridgewater et al*, Docket #FIC 2017-0519 (August 8, 2018) (where allegations were not fairly raised in the complaint, the Commission lacked jurisdiction to consider such issues); *see also Shultz v. Bd. of Selectmen, Town of Woodstock, et al.*, Docket #FIC 2021-0153 (February 22, 2023) (finding a certain allegation not fairly raised in the complaint, and therefore the Commission was without jurisdiction to adjudicate such claim).

12. It is found that the complainant alleged in his August 9, 2024 complaint at issue in this matter that, on April 12, 2024, he made an amended request to the respondents. It is also found that he solely submitted a copy of such April 12, 2024 request with his August 9, 2024 complaint to the Commission. It is further found that the complainant further alleged in his complaint that "[i]nstead of amending my March 30 request as I request, the DOB opened a new request, which they track as R000014-041524."¹

13. It is found that the complainant's April 12, 2024 request, attached to the August 9, 2024 complaint, specifically requested the respondents "to perform a new search" "as spelled out" in the April 12, 2024 email.

14. It is found that the March 30, 2024 and April 15, 2024 requests included requests for additional records and that such records requests were not specifically described in the complainant's April 12, 2024 request referenced in paragraph 3, above.

15. It is found that the August 9, 2024 complaint alleged that the complainant previously appealed the respondents' denial of the complainant's March 30, 2024 records request and that such appeal was pending in a separate action with the Commission: *DiIorio v. Commissioner, Dep't of Banking, et al.*, Docket #FIC 2024-0243. It is further found that the August 9, 2024 complaint does not contain any mention of the complainant's April 15, 2024 request.

16. It is found that no allegations relating to the March 30, 2024 and April 15, 2024 requests were fairly raised in the complainant's August 9, 2024 complaint to the Commission. Thus, it is concluded that the Commission lacks jurisdiction to consider and act upon any

¹ It is found that the respondents applied tracking number R000014-041524 to the complainant's April 12, 2024 request; whereas the respondents applied tracking number R000013-040424 to the complainant's March 30, 2024 request.

allegations related to the March 30, 2024 and April 15, 2024 requests.²

Jurisdiction

17. In their post-hearing brief, the respondents moved to dismiss this matter contending that the complainant's appeal was not timely filed and therefore beyond the jurisdiction of the Commission. The respondents contended that their denial of records occurred when they first withheld certain responsive records from the complainant on June 6, 7, and 14, 2024, more than thirty days prior to the filing of the complaint. The respondents also claimed that there was a series of communications between the parties relating to other records requests by the complainant, but those other communications did not constitute a denial of the April 12, 2024 request at issue.

18. Section 1-206(b)(1), G.S., provides in relevant part:

Any person denied the right to inspect or copy records under section 1-210 ... or denied any other right conferred by the [FOI] Act may appeal therefrom to the [FOI] Commission, by filing a notice of appeal with said commission. **A notice of appeal shall be filed not later than thirty days after such denial....** For purposes of this subsection, such notice of appeal shall be deemed to be filed on the date it is received by said commission or on the date it is postmarked, if received more than thirty days after the date of the denial from which such appeal is taken.

(Emphasis Added.)

19. While there were numerous, if not countless, email communications between the complainant and the respondents relating to different records requests by the complainant, it is found that the July 11, 2024 email from the respondents to the complainant constituted, at least in part, a denial of the complainant's April 12, 2024 request and that such communication was less than thirty days before the complainant's August 9, 2024 appeal.

20. As found in paragraph 6, above, the July 11, 2024 email from the respondents to the complainant informed the complainant that "[s]ome documents were withheld because they are confidential banking regulatory records under Section 36a-21 of the Connecticut General Statutes. Some documents have been redacted and/or withheld pursuant to Section 1-210(b) of the FOIA. Accordingly, our handling of your request is now complete, and the Department considers this matter closed."

21. It is further found that such July 11, 2024 email specifically referenced the respondents' tracking number "R000014-041524" which the respondents had assigned to the

² The Commission also notes that treating an "amended request" as a new, separate request is not necessarily a violation of the FOI Act where the agency responds to both requests.

complainant's April 12, 2024 request.³

22. Because the FOI Act does not bar successive requests or *successive denials*, there is no requirement that an appeal to the Commission, pursuant to §1-206(b), G.S., be taken from the first denial or any particular denial. *See, e.g., Board of Education v. Freedom of Information Commission*, 208 Conn. 442, 451 (1988). Such a rigid requirement “would frustrate the ‘strong legislative policy in favor of the open conduct of government and free public access to government records.’ *Wilson v. Freedom of Information Commission*, [181 Conn. 324, 328 (1980)].” *Id.*

23. It is therefore concluded that, because the complaint was filed within thirty days of the July 11, 2024 denial, the complaint was timely filed. The respondents' motion to dismiss is therefore denied.

24. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

25. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

26. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

27. It is concluded that the requested records, to the extent that they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

³ While the July 11, 2024 email, described in paragraph 6, above, refers to an April 15, 2024 request, the respondents explained that such email is in response to the April 12, 2024 request and that because the respondents had not entered the April 12, 2024 request into the GovQA system until April 15, 2024, GovQA wrongly recorded the request date as April 15, 2024.

Search for Records

28. As found in paragraph 5, above, the respondents, in total, provided the complainant with a copy of 7,584 pages of records responsive to the April 12, 2024 request. The complainant contended, however, that the respondents had not provided him with all of the responsive records and that the respondents had not performed an adequate search. The complainant also contended that the respondents improperly failed to disclose records that the respondents deemed to be “nonresponsive.”

29. At the hearing on this matter, the FOI Coordinator for the Department of Banking (“DOB”) testified on behalf of the respondents. It is found that, after receiving the April 12, 2024 request, the respondents arranged for the Bureau of Enterprise Systems and Technology (“BEST”) within the Department of Administrative Services (“DAS”) to search for emails responsive to the complainant’s April 12, 2024 request.⁴

30. Although the respondents’ witness was uncertain as to the exact searches that were conducted, he ultimately testified, in conformity with the documentary evidence, and it is therefore found, that BEST’s searches conformed with the searches requested in the complainant’s April 12, 2024 request. More specifically, it is found that BEST searched the email addresses and the search terms set forth by the complainant in such request.

31. At the hearing on this matter, the FOI Coordinator testified that he believed that he had withheld certain records as nonresponsive to the April 12, 2024 request. However, the respondents submitted an Affidavit of Sabrina N. Crispim, a Paralegal Specialist for the DOB dated April 28, 2025 - Respondents’ Exhibit 8 (after-filed). In her affidavit, the Paralegal Specialist averred, and it is found, that she reviewed the respondents’ records gathered in response to the April 12, 2024 request and that no emails were discarded or withheld as “non-responsive.”

32. It is found that the sole record that the Paralegal Specialist found not disclosed to the complainant nor initially provided to the Commission for in camera review was a record that the respondents deemed to be a duplicate of another record. It is found that such record with a link redacted was ultimately provided to the complainant and to the Commission. It is further found that the record was substantially identical to a different record that was previously disclosed to the complainant with a link redacted and that when the respondents determined that it was not an exact duplicate because it was sent to a different individual than the record that had been disclosed, the respondents provided the record to the complainant with the link redacted. It is found that the failure to provide such record earlier was inadvertent and that such mistake has been rectified.

33. Based upon all of the circumstances, it is found that the respondents conducted a reasonably diligent and thorough search for responsive records and, except for the withheld records discussed in detail below, the respondents disclosed all responsive records, without redactions, to the complainant, free of charge.

⁴ BEST, which has been renamed the Bureau of Information Technology Solutions, maintains the respondents’ email servers and provides information technology support and services to the State of Connecticut Executive Branch agencies.

34. It is therefore concluded that the respondents did not violate the FOI Act with respect to their search for responsive records.

First In Camera Submission

35. On March 13, 2025, in accordance with an order of the undersigned hearing officer, the respondents submitted 831 pages of records, without redactions, for in camera inspection (“First In Camera Submission”). Such records were produced in three separate groups: the first group are identified herein as IC-2024-0467-I.A.-1 to IC-2024-0467-I.A.-551, which are records responsive to the request described in paragraph 3.a., above;⁵ the second group of such records are identified herein as IC-2024-0467-I.B.-1 to IC-2024-0467-I.B.-154, which are records responsive to the request described in paragraph 3.b., above;⁶ and the third group of such records are identified herein as IC-2024-0467-I.C.-1 to IC-2024-0467-I.C.-126, which are records responsive to the request described in paragraph 3.c., above.⁷

36. On the index for the First In Camera Submission, the respondents claimed that the in camera records referenced in paragraph 35, above, were exempt from disclosure pursuant to §§1-210(b)(10) (attorney-client privilege); 1-210(b)(1) (preliminary notes and drafts); 1-210(b)(4) (pertaining to strategy and negotiations with respect to pending claims and litigation);⁸ 1-210(b)(19); and/or 1-210(b)(20), G.S.

Section 1-210(b)(10), G.S.

37. With respect to the respondents’ claim that certain of the in camera records are exempt from disclosure pursuant to §1-210(b)(10), G.S., such provision provides in relevant part that public agencies are not required to disclose “communications privileged by the attorney-client relationship ... or any other privilege established by the common law or the general statutes”

38. Section 52-146r(b), G.S., provides that “[i]n any civil or criminal case or proceeding or in any legislative or administrative proceeding, all confidential communications shall be privileged and a government attorney shall not disclose any such communications unless an authorized representative of the public agency consents to waive the privilege and allow disclosure.” In *Maxwell v. Freedom of Info. Comm’n*, 260 Conn. 143, 149 (2002), the Connecticut Supreme Court held that §52-146r, G.S., “merely codif[ies] the common law attorney-client privilege as this court previously defined it.”

39. Section 52-146r(a)(2), G.S., defines “confidential communications” to mean:

all oral and written communications transmitted in confidence

⁵ Although the respondents should have just bated stamped the in camera records numerically, the respondents labeled such records as WITH53B001 through WITH53B551.

⁶ The respondents bated stamped such records as WITH54B001 through WITH54B154.

⁷ The respondents bated stamped such records as WITH55B001 through WITH55B126.

⁸ Because the records claimed to be exempt pursuant to §1-210(b)(4), G.S., are determined to be exempt pursuant to §1-210(b)(10), G.S., the Commission need not analyze §1-210(b)(4), G.S. See paragraphs 37 to 48 of the findings, below.

between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice.

40. The Supreme Court has adopted a four part test to determine whether communications are subject to the attorney-client privilege: “(1) the attorney must be acting in a professional capacity for the agency; (2) the communications must be made to the attorney by current employees or officials of the agency; (3) the communications must relate to the legal advice sought by the agency from the attorney; and (4) the communications must be made in confidence.” *Shew v. Freedom of Info. Comm’n*, 245 Conn. 149, 159 (1998). “If it is clear from the face of the records, extrinsic evidence is not required to prove the existence of the attorney-client privilege.” *Lash v. Freedom of Info. Comm’n*, 300 Conn. 511, 516-17 (2011).

41. Moreover, the attorney-client privilege protects both the confidential giving of professional advice by an attorney acting in the capacity of a legal advisor to those who can act on it, as well as the giving of information to the lawyer to enable counsel to give sound and informed advice.” *PSE Consulting, Inc. v. Frank Mercede & Sons, Inc.*, 267 Conn. 279, 329–30 (2004).

42. Upon careful in camera inspection and the evidence presented at the hearings on this matter, it is found that the following in camera records are communications “between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney,” which “relate to legal advice” sought by the public agency client from the attorney, and were “transmitted in confidence,” or were “records prepared by the government attorney in furtherance of the rendition of such legal advice,” within the meaning of §52-146r(a)(2), G.S.:

a. With respect to records responsive to the request described in paragraph 3.a., above:

IC-2024-0467-I.A.-1; IC-2024-0467-I.A.-333 to IC-2024-0467-I.A.-338; IC-2024-0467-I.A.-350 to IC-2024-0467-I.A.-424; IC-2024-0467-I.A.-471 to IC-2024-0467-I.A.-476; IC-2024-0467-I.A.-520 to IC-2024-0467-I.A.-537; and IC-2024-0467-I.A.-339 to IC-2024-0467-I.A.-351.

b. With respect to records responsive to the request described in paragraph 3.b., above:

IC-2024-0467-I.B.-21 to IC-2024-0467-I.B.-22; IC-2024-0467-I.B.-21 to IC-2024-0467-I.B.-46; IC-2024-0467-I.B.-52 to IC-2024-0467-I.B.-129; IC-2024-0467-I.B.-132 to IC-2024-0467-I.B.-133; IC-2024-0467-I.B.-135 to IC-2024-0467-I.B.-148; and IC-2024-0467-I.B.-152 to IC-2024-0467-I.B.-154.

c. With respect to records responsive to the request described in paragraph 3.c., above:

IC-2024-0467-I.C.-20 to IC-2024-0467-I.C.-28; and IC-2024-0467-I.C.-97 to IC-2024-0467-I.C.-126.

43. It is concluded that the records identified in paragraph 42, above, constitute communications or records protected by the attorney-client privilege, within the meaning of §1-210(b)(10), G.S. Accordingly, it is further concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of such records to the complainant.

44. With respect to attachments and forwarded emails included in the email communications described in paragraph 42, above, such records are otherwise found to be exempt pursuant §36a-21(a)(2), G.S., and not publicly disclosed within the meaning of §36a-21(e), G.S. See paragraphs 75 and 93, below.

45. With respect to emails referenced in paragraph 42, above, that are protected by the attorney-client privilege, it is found that the names of the senders and recipients as well as the dates of such emails are not protected by the attorney-client privilege and therefore should be disclosed to the complainant.

46. After careful in camera inspection, it is found that the following records that the respondents claimed to be exempt pursuant to §1-210(b)(10), G.S., are not protected by the attorney-client privilege within the meaning of §52-146r(a)(2), G.S., because they were shared with a third party: IC-2024-0467-I.C.-29 to IC-2024-0467-I.C.-96.

47. It is therefore concluded that IC-2024-0467-I.C.-29 to IC-2024-0467-I.C.-96 are not exempt from disclosure pursuant to §1-210(b)(10), G.S., as contended by the respondents.

48. It is further concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., when they failed to provide the senders, recipients, and the dates of emails referenced in paragraph 42, above, as well as copies of IC-2024-0467-I.C.-29 to IC-2024-0467-I.C.-96 to the complainant.

§1-210(b)(1), G.S.

49. With respect to the respondents' claim that certain in camera records described on the Index to the First In Camera Submission as "preliminary drafts" are exempt from disclosure pursuant to §1-210(b)(1), G.S., such provision provides that disclosure is not required of "preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure."

50. In *Shew v. Freedom of Information Commission*, the Court ruled that "the concept of preliminary [drafts or notes], as opposed to final [drafts or notes], should not depend upon...whether the actual documents are subject to further alteration..." but rather "[p]reliminary drafts or notes reflect that aspect of the agency's function that precede formal and informed decision making.... It is records of this preliminary, deliberative and predecisional process that...the exemption was meant to encompass." *Shew v. Freedom of Info. Comm'n*, 245 Conn. 149, 165 (1998), citing *Wilson v. Freedom of Info. Comm'n*, 181 Conn. 324, 332 (1989)

(“*Wilson*”). In addition, once the underlying document is identified as a preliminary draft or note, “[i]n conducting the balancing test, the agency may not abuse its discretion in making the decision to withhold disclosure. The agency must, therefore, indicate the reasons for its determination to withhold disclosure and those reasons must not be frivolous or patently unfounded.” *State of Connecticut, Office of the Attorney General v. Freedom of Info. Comm’n*, 2011 WL 522872, *8 (Conn. Super. Ct. Jan. 20, 2011) (citations omitted).

51. The year following *Wilson*, the Connecticut legislature adopted Public Act 81-431, and added to the FOI Act the language now codified in §1-210(e)(1), G.S. Accordingly, §1-210(b)(1), G.S., must be read in conjunction with §1-210(e)(1), G.S., which provides, in relevant part:

Notwithstanding the provisions of subdivisions (1) and (16) of subsection (b) of this section, disclosure shall be required of...

(1) Interagency or intra-agency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated, except disclosure shall not be required of a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency....

52. Based upon a careful inspection of the in camera records described in paragraph 49, above, it is found that such records appear to be drafts; however, the respondents provided no testimonial or extrinsic evidence concerning such records. It is further found that the respondents provided no evidence as to whether such records were part of the respondents’ preliminary, deliberative and predecisional process. It is further found that the respondents failed to present evidence of the origin or meaning of such alleged draft records that were not disclosed.

53. Additionally, it is found that, although the FOI Coordinator testified that he conducted a balancing test with respect to the records the respondents withheld pursuant to §1-210(b)(1), G.S., the respondents failed to present any evidence concerning the specific public interest or interests that supported withholding each individual record that clearly outweighed the public interest in disclosure of such records.

54. Accordingly, it is found that the respondents failed to indicate the reasons for their determination to withhold disclosure of such records and failed to prove that such reasons were not frivolous or patently unfounded.

55. It is further found that the respondents failed to address whether any of the records claimed to be exempt pursuant to §1-210(b)(1), G.S., are subject to mandatory disclosure pursuant to §1-210(e)(1), G.S.

56. In light of the foregoing, it is found that the respondents failed to prove that the following in camera records constitute “preliminary drafts or notes” within the meaning of §1-210(b)(1), G.S.:

a. With respect to records responsive to the request described in paragraph 3.a., above:

IC-2024-0467-I.A.-4 to IC-2024-0467-I.A.-332; IC-2024-0467-I.A.-339 to IC-2024-0467-I.A.-349; IC-2024-0467-I.A.-425 to IC-2024-0467-I.A.-470; and IC-2024-0467-I.A.-477 to IC-2024-0467-I.A.-519.

b. With respect to records responsive to the request described in paragraph 3.b., above:

IC-2024-0467-I.B.-1 to IC-2024-0467-I.B.-20; IC-2024-0467-I.B.-47 to IC-2024-0467-I.B.-51; IC-2024-0467-I.B.-134; and IC-2024-0467-I.B.-149 to IC-2024-0467-I.B.-151.

c. With respect to records responsive to the request described in paragraph 3.c., above:

IC-2024-0467-I.C.-8 to IC-2024-0467-I.C.-19.

57. Although not identified as such on the Index to the First In Camera Submission, it is found that IC-2024-0467-I.B.-1 to IC-2024-0467-I.B.-20; IC-2024-0467-I.B.-134; IC-2024-0467-I.B.-149 to IC-2024-0467-I.B.-151 and IC-2024-0467-I.C.-8 to IC-2024-0467-I.C.-19 are clearly protected by the attorney-client privilege and that IC-2024-0467-I.A.-467 to IC-2024-0467-I.A.-470 are clearly exempt from disclosure pursuant §36a-21(a)(2), G.S., and were not publicly disclosed within the meaning of §36a-21(e), G.S. The Commission therefore declines to order the disclosure of such records.

58. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide a copy of the following in camera records to the complainant: IC-2024-0467-I.A.-4 to IC-2024-0467-I.A.-332; IC-2024-0467-I.A.-339 to IC-2024-0467-I.A.-349; IC-2024-0467-I.A.-425 to IC-2024-0467-I.A.-466; IC-2024-0467-I.A.-477 to IC-2024-0467-I.A.-519; and IC-2024-0467-I.B.-47 to IC-2024-0467-I.B.-51.

§1-210(b)(19), G.S.

59. Next, the respondents contended that portions of IC-2024-0467-I.C.-1 to IC-2024-0467-I.C.-7 are exempt from disclosure pursuant to §1-210(b)(19), G.S.

60. Section 1-210(b)(19), G.S., provides, in relevant part, that, the FOI Act shall not require disclosure of:

[r]ecords when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A) (i) by the Commissioner of Administrative

Services, after consultation with the chief executive officer of an executive branch state agency, with respect to records concerning such agency....

61. In addition, §1-210(d), G.S., provides, in relevant part, that:

[w]henever a public agency, except the Judicial Department or Legislative Department, receives a request from any person for disclosure of any records described in subdivision (19) of subsection (b) of this section under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Administrative Services or the Commissioner of Emergency Services and Public Protection, as applicable, of such request, in the manner prescribed by such commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency, believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from such person.

62. It is found that the respondents provided no evidence that they consulted with the Commissioner of Administrative Services as to whether there were “reasonable grounds” to believe that disclosure of the requested records may constitute a safety risk, within the meaning of §1-210(b)(19), G.S. It is found that, instead, the in camera index merely states “[e]mergency plans and emergency preparedness plans, and recovery plans. Redacted Security Clearance list. Redacted format provided to requester.”

63. It is therefore found that the respondents failed to prove that IC-2024-0467-I.C.-1 to IC-2024-0467-I.C.-7 are exempt from disclosure pursuant to §1-210(b)(19), G.S. Accordingly, it is concluded that such in camera records are not exempt from disclosure pursuant to §1-210(b)(19), G.S.

64. It is concluded that the respondents violated the disclosure provisions of the FOI Act by failing to provide the redacted information on IC-2024-0467-I.C.-1 to IC-2024-0467-I.C.-7.

§1-210(b)(20), G.S.

65. The respondents also contended that portions of IC-2024-0467-I.A.-2 to IC-2024-0467-I.A.-3; IC-2024-0467-I.A.-538; and IC-2024-0467-I.B.-130 to IC-2024-0467-I.B.-131 are exempt from disclosure pursuant to §1-210(b)(20), G.S.

66. Section 1-210(b)(20), G.S., provides that public agencies are not required to disclose “[r]ecords of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system[.]”

67. It is found that the portions of the in camera records claimed to be exempt from

disclosure pursuant to §1-210(b)(20), G.S., consist of a link, username and/or a password. However, it is found that the respondents offered no evidence that such a link, username and/or a password constitute a code that is not otherwise available to the public or that disclosure of such a link, username and/or a password would compromise the security or integrity of the respondents' information technology system.

68. Accordingly, it is found that the respondents failed to prove that such records are exempt from disclosure pursuant to §1-210(b)(20), G.S.

69. Nevertheless, the Commission notes that it has historically declined to order the disclosure of personal identifiers, such as social security numbers and employee identification numbers when contained in personnel, medical or similar files pursuant to §1-210(b)(2), G.S., as such disclosure would constitute an invasion of personal privacy. *See, e.g., Kevin J. Daly, Jr. and the City of Waterbury v. Commissioner, State of Connecticut, Department of Correction, et al.*, FIC #2014-032 (Nov. 19, 2014); *Garrison v. Supervisor, Unclaimed Property Division, State of Connecticut Office of the Treasurer*, FIC #89-76 (Sept. 13, 1989). It is found that a link, username and/or a password constitute such a personal identifier. *See, e.g., Zygmunt v. Attorney General, State of Connecticut, Office of the Attorney General, et al.*, Docket # FIC 2021-0275 (November 16, 2022).

70. Although the links, usernames and/or a passwords in this case are not contained in personnel, medical or similar files, based on the facts and circumstances in this case, the Commission, in its discretion, declines to order the disclosure of the links, usernames and/or passwords contained in IC-2024-0467-I.A.-2 to IC-2024-0467-I.A.-3; IC-2024-0467-I.A.-538; and IC-2024-0467-I.B.-130 to IC-2024-0467-I.B.-131 in this case.

Second In Camera Submission

71. On March 26, 2025, in accordance with an order of the undersigned hearing officer, the respondents submitted 10,093 pages of records, without redactions, for in camera inspection ("Second In Camera Submission"). Such records were likewise produced in three separate groups: the first group will be identified herein as IC-2024-0467-II.A.-1 to IC-2024-0467-II.A.-3690, which are records responsive to the request described in paragraph 3.a., above;⁹ the second group of such records will be identified herein as IC-2024-0467-II.B.-1 to IC-2024-0467-II.B.-2277, which are records responsive to the request described in paragraph 3.b., above;¹⁰ and the third group of such records will be identified herein as IC-2024-0467-II.C.-1 to IC-2024-0467-II.C.-4126, which are records responsive to the request described in paragraph 3.c., above.¹¹

72. On the index for the Second In Camera Submission, the respondents contended that the vast majority of the in camera records were confidential records of the respondent Connecticut Department of Banking and exempt from disclosure pursuant to §§36a-21(a)(1), 36a-21(a)(2), 36a-21(a)(3) and/or 36a-21(d), G.S.¹²

⁹ The respondents bates stamped such records as WITH53A001 through WITH53A3690.

¹⁰ The respondents bates stamped such records as WITH54A001 through WITH54A2277.

¹¹ The respondents bates stamped such records as WITH55A001 through WITH55A4126.

¹² All of the in camera records claimed to be exempt pursuant to §§36a-21(a)(1) and 36a-21(d), G.S., are found to be exempt pursuant to §36a-21(a)(2), G.S., below, and therefore the Commission need not analyze the exemptions claimed pursuant to §§36a-21(a)(1) and 36a-21(d), G.S.

73. It is noted that the respondents included in the Second In Camera Submission IC-2024-0467-II.B.-43 to IC-2024-0467-II.B.-55; IC-2024-0467-II.B.-929 to IC-2024-0467-II.B.-930; and IC-2024-0467-II.C.-2577, for which the respondents did not raise a claim of exemption. It is found that, based upon the testimony at the hearing on this matter and the statements on the Index for the Second In Camera Submission, such records have already been provided to the complainant. Accordingly, such records will not be further addressed herein.

Section 36a-21(a)(2), G.S.

74. Section 36a-21(a)(2), G.S., states in relevant part:

- (a) Notwithstanding any provision of state law and except as provided in subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery: ...
- (2) Confidential supervisory or investigative information and records obtained or collected by a state, federal or foreign regulatory or law enforcement agency;

75. After careful examination of the in camera records, it is found that the following in camera records are records of the Connecticut Department of Banking and that such records constitute confidential supervisory or investigative information and records obtained or collected by a state, federal or foreign regulatory or law enforcement agency, within the meaning of §36a-21(a)(2), G.S., as follows:

a. With respect to records responsive to the request described in paragraph 3.a., above:

IC-2024-0467-II.A.-1 to IC-2024-0467-II.A.-11; IC-2024-0467-II.A.-42 to IC-2024-0467-II.A.-237; IC-2024-0467-II.A.-268 to IC-2024-0467-II.A.-326; IC-2024-0467-II.A.-423 to IC-2024-0467-II.A.-437; IC-2024-0467-II.A.-444 to IC-2024-0467-II.A.-747; IC-2024-0467-II.A.-749 to IC-2024-0467-II.A.-3571; and IC-2024-0467-II.A.-3639 to IC-2024-0467-II.A.-3654.

b. With respect to records responsive to the request described in paragraph 3.b., above:

IC-2024-0467-II.B.-1 to IC-2024-0467-II.B.-2; IC-2024-0467-II.B.-10 to IC-2024-0467-II.B.-42; IC-2024-0467-II.B.-56 to IC-2024-0467-II.B.-140; IC-2024-0467-II.B.-149 to IC-2024-0467-II.B.-183; IC-2024-0467-II.B.-187 to IC-2024-0467-II.B.-772; IC-2024-0467-II.B.-780 to IC-2024-0467-II.B.-928; and IC-2024-0467-II.B.-931 to IC-2024-0467-II.B.-2277.

c. With respect to records responsive to the request described in paragraph 3.c., above:

IC-2024-0467-II.C.-1 to IC-2024-0467-II.C.-905; IC-2024-0467-II.C.-907 to IC-2024-0467-II.C.-2576; and IC-2024-0467-II.C.-2578 to IC-2024-0467-II.C.-4126.

76. After careful examination of the in camera records, it is found that the following in camera records are records of the Connecticut Department of Banking; however it is found that such records do not constitute confidential supervisory or investigative information and records obtained or collected by a state, federal or foreign regulatory or law enforcement agency, within the meaning of §36a-21(a)(2), G.S: IC-2024-0467-II.A.-438 to IC-2024-0467-II.A.-443; IC-2024-0467-II.B.-773 to IC-2024-0467-II.B.-779; and IC-2024-0467-II.C.-906.

77. Accordingly, it is concluded that the IC-2024-0467-II.A.-438 to IC-2024-0467-II.A.-443; IC-2024-0467-II.B.-773 to IC-2024-0467-II.B.-779; and IC-2024-0467-II.C.-906 are not exempt from disclosure pursuant to §36a-21(a)(2).

78. It is therefore concluded that the respondents violated the disclosure provisions of the FOI Act by withholding IC-2024-0467-II.A.-438 to IC-2024-0467-II.A.-443; IC-2024-0467-II.B.-773 to IC-2024-0467-II.B.-779; and IC-2024-0467-II.C.-906 from the complainant.

Section 36a-21(a)(3)(A), G.S.

79. The respondents also claimed on the Index to the Second in Camera Submission that IC-2024-0467-II.A.-327 to IC-2024-0467-II.A.-422; and IC-2024-0467-II.A.-748 are exempt from disclosure pursuant to §36a-21(a)(3)(A), G.S.

80. Section 36a-21(a)(3)(A), G.S., states in relevant part:

(a) Notwithstanding any provision of state law and except as provided in subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery: ... (3) Information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Department of Banking, if such records are protected from disclosure under federal or state law or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (A) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation and all related administrative and legal actions are concluded....

81. After careful examination of the in camera records, it is found that IC-2024-0467-II.A.-327 to IC-2024-0467-II.A.-422; and IC-2024-0467-II.A.-748 are records of the Connecticut Department of Banking and that such records constitute investigative information obtained in connection with an investigation, the disclosure of which would be prejudicial to such investigation, within the meaning of §36a-21(a)(3)(A), G.S. It is further found that, at the time

of the April 12, 2024 request, the investigation and all related administrative and legal actions related to such records had not been concluded.

Section 36a-21(a)(3)(B), G.S.

82. The respondents also claimed on the Index to the Second in Camera Submission that IC-2024-0467-II.A.-12 to IC-2024-0467-II.A.-41; IC-2024-0467-II.A.-238 to IC-2024-0467-II.A.-267; and IC-2024-0467-II.A.-3572 to IC-2024-0467-II.A.-3638 are exempt from disclosure pursuant to §36a-21(a)(3)(B), G.S.

83. Section 36a-21(a)(3)(B), G.S., states in relevant part:

(a) Notwithstanding any provision of state law and except as provided in subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery: ... (3) Information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Department of Banking, if such records are protected from disclosure under federal or state law or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: ... (B) personal or financial information, including account or loan information, without the written consent of the person or persons to whom the information pertains....

84. After careful examination of the in camera records, it is found that IC-2024-0467-II.A.-12 to IC-2024-0467-II.A.-41; IC-2024-0467-II.A.-238 to IC-2024-0467-II.A.-267; and IC-2024-0467-II.A.-3572 to IC-2024-0467-II.A.-3638 are records of the Connecticut Department of Banking and that such records constitute personal or financial information, including account or loan information, and that there is no written consent of the person or persons to whom the information pertains, within the meaning of §36a-21(a)(3)(B), G.S.

Section 36a-21(e), G.S.

85. At the hearings on this matter and in his post-hearing brief, the complainant contended that, pursuant to §36a-21(e), G.S., any records claimed exempt pursuant to §36a-21(a), G.S., that relate to the public adjudication of the enforcement actions concerning 1st Alliance's license to do business as a mortgage lender in this state must be disclosed because such enforcement actions were publicly adjudicated.

86. Section 36a-21(e), G.S., provides, in relevant part, that "[t]he confidentiality provisions of [§36a-21, G.S.] shall not apply to records relating to the employment history of, and *publicly adjudicated disciplinary and enforcement actions* against, persons that are included

in the system for access by the public.”¹³ (Emphasis added.)

87. Section 36a-2(50), G.S., defines “person” as “an individual, company, including a company ... or any other legal entity, including a federal, state or municipal government or agency or any political subdivision thereof”

88. It is found that the “system” referenced in §36a-21(e), G.S., refers to the Nationwide Multistate Licensing System and Registry (“NMLS”). See § 36a-2 (72), G.S.

89. The Commission has found no case law construing §36a-21(e), G.S., nor have the parties presented any such judicial authority to the Commission. However, “[i]n construing a statute, common sense must be used and courts must assume that a reasonable and rational result was intended.” *Dorry v. Garden*, 313 Conn. 516, 531 (2014),

90. It is concluded that, based upon a reasonable interpretation of the statute as a whole, §36a-21(e), G.S., applies to records that are made public through publicly adjudicated disciplinary and enforcement actions, within the meaning of §36a-21(e), G.S.

91. It is found that 1st Alliance is a “person” that is included in the NMLS system for access by the public.

92. With respect to this issue, the Commission takes administrative notice of the public record in *1st Alliance Lending LLC v. State of Connecticut Department of Banking*, HHB-CV21-6066325-S (“HHB-CV21-6066325-S”) and the respective administrative record publicly available on the Judicial Branch’s website. The Commission also takes administrative notice of the following: *In the matter of: Alliance Lending, LLC, NMLS #2819, Findings of Fact, Conclusions of Law and Order*, (Oct. 4, 2019) (DOB commissioner revoked 1st Alliance’s license because respondent failed to obtain the statutorily required surety bond); *In the matter of: Alliance Lending, LLC, NMLS #2819, Findings of Fact, Conclusions of Law and Order* (April 16, 2021) (DOB Commissioner revoked 1st Alliance’s license to do business in this state as a mortgage lender and imposed a civil penalty for multiple violations of state and federal law); *1st Alliance Lending, LLC v. Dept. of Banking*, 342 Conn. 273, 275 (2022), (upholding commissioner’s revocation of 1st Alliance Lending LLC’s mortgage lending license due to its failure to maintain a surety bond); *1st Alliance Lending LLC v. Dept. of Banking* HHB-CV-21-6066325, Memorandum of Decision, (Conn. Sup. Ct. April 19, 2023) (upholding DOB’s decision to revoke 1st Alliance’s license to do business in this state as a mortgage lender and imposing a \$750,000 civil penalty); *1st Alliance Lending, LLC v. Dep’t of Banking*, 229 Conn. App. 664 (2024), *cert. denied*, 351 Conn. 906 (2025) (upholding DOB’s decision revoking 1st Alliance’s license to do business as a mortgage lender in this state and imposing a civil penalty for multiple violations of state and federal law).

93. After careful examination of the in camera records as well as the administrative record filed in HHB-CV21-6066325-S and the other cases cited in paragraph 92, above, it is found that the following in camera records constitute records relating to the publicly adjudicated enforcement actions against 1st Alliance, within the meaning of §36a-21(e), G.S.: IC-2024-0467-

¹³ The Commission notes that the “system” as referenced in §36a-21(e), G.S., refers to the Nationwide Multistate Licensing System and Registry (“NMLS”).

II.B.-11 to IC-2024-0467-II.B.-29; IC-2024-0467-II.B.-64 to IC-2024-0467-II.B.-84; IC-2024-0467-II.B.-104 to IC-2024-0467-II.B.-115; IC-2024-0467-II.B.-232 to IC-2024-0467-II.B.-234; IC-2024-0467-II.B.-237 to IC-2024-0467-II.B.-239; IC-2024-0467-II.B.-465 to IC-2024-0467-II.B.-481; IC-2024-0467-II.B.-500 to IC-2024-0467-II.B.-502; IC-2024-0467-II.C.-936 to IC-2024-0467-II.C.-1896; IC-2024-0467-II.C.-2095 to IC-2024-0467-II.C.-2484; and IC-2024-0467-II.C.-2578 to IC-2024-0467-II.C.-3070.

94. It is found that the confidentiality provisions of §36a-21, G.S., do not apply to the records described in paragraph 93, above, and that such records are not exempt from disclosure under such statute.

95. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they failed to provide a copy of the records described in paragraph 93, above, to the complainant.

96. With the exception of the records described in paragraph 93, above, it is found that the in camera records described in paragraphs 75, 81, and 84, above, do not constitute records relating to the publicly adjudicated enforcement actions. Accordingly, it is concluded that the respondents did not violate the FOI Act by denying the complainant access to the remaining in camera records described in paragraphs 75, 81, and 84, above.

§1-210(b)(20), G.S.

97. The respondents also contended that portions of IC-2024-0467-II.A.-3655; IC-2024-0467-II.A.-3690; IC-2024-0467-II.B.-3; IC-2024-0467-II.B.-6; IC-2024-0467-II.B.-7; IC-2024-0467-II.B.-9 and the supplemental record submitted with the Crispim April 28, 2025 Affidavit are exempt from disclosure pursuant to §1-210(b)(20), G.S.¹⁴

98. It is found that the portions claimed to be exempt from disclosure consist of a link, a file location and passwords. However, it is found that the respondents offered no evidence that such file location and passwords constitute a code that is not otherwise available to the public or that disclosure of such information would compromise the security or integrity of the respondents' information technology system.

99. Accordingly, it is found that the respondents failed to prove that such records are exempt from disclosure pursuant to §1-210(b)(20), G.S.

100. Nevertheless, as determined in paragraphs 66 through 70, above, the Commission, in its discretion, declines to order the disclosure of the link, file location, and passwords contained in IC-2024-0467-II.A.-3655; IC-2024-0467-II.A.-3690; IC-2024-0467-II.B.-3; IC-2024-0467-II.B.-6; IC-2024-0467-II.B.-7; IC-2024-0467-II.B.-9 and the supplemental record submitted with the Crispim April 28, 2025 Affidavit in this case.

¹⁴ The Index to the Second In Camera Submission also claims that these records are confidential banking records pursuant to §36a-21(a)(2), G.S.; however, the respondents disclosed the full records to the complainant except for the passwords and file locations that were redacted. Accordingly, it is found that such records are not confidential pursuant to §36a-21(a)(2), G.S.

§1-210(b)(10), G.S.

101. The respondents also contended that portions IC-2024-0467-II.B.-141 to IC-2024-0467-II.B.-148; IC-2024-0467-II.B.-184 to IC-2024-0467-II.B.-186 are exempt from disclosure pursuant to §1-210(b)(20), G.S.

102. Upon careful in camera inspection and the evidence presented at the hearing on this matter, it is found that IC-2024-0467-II.B.-141 to IC-2024-0467-II.B.-148; IC-2024-0467-II.B.-184 to IC-2024-0467-II.B.-186 are communications “between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney,” which “relate to legal advice” sought by the public agency client from the attorney, which were “transmitted in confidence,” or were “records prepared by the government attorney in furtherance of the rendition of such legal advice,” within the meaning of §52-146r(a)(2), G.S.

103. It is concluded that IC-2024-0467-II.B.-141 to IC-2024-0467-II.B.-148; IC-2024-0467-II.B.-184 to IC-2024-0467-II.B.-186 constitute communications or records protected by the attorney-client privilege, within the meaning of §1-210(b)(10), G.S. Accordingly, it is further concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to provide a copy of such records to the complainant.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within thirty days of the date of the Notice of Final Decision in this matter, the respondents shall provide to the complainant, free of charge, copies of the records, or portions thereof, described in paragraphs 45, 46, 58, 63, 77, and 93 of the findings, above.
2. If the respondents have not already provided the complainant with copies of the records described in paragraph 73 of the findings, above, the respondents shall provide such records to the complainant within seven days of the date of the Notice of the Final Decision in this matter.
3. Henceforth, the respondents shall strictly comply with the disclosure requirements of §§1-210(a) and 1-212(a), G.S.

/s/ Mary-Kate Smith
Mary-Kate Smith
as Hearing Officer