FILED

MAR 12 2012

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ELR CAPITAL INC.; and ANTHONY AFSHIN KHANDAN, individually and as designated officer of ELR Capital Inc.,; Respondents.	H-37276 LA

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On May 13, 2011, an Accusation was filed in this matter against Respondent ELR CAPITAL INC.

On January 31, 2012, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license rights pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that ELR CAPITAL INC.'s petition for voluntary surrender of its real estate broker license and/or license rights are accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated January 31, 2012. Respondents' license certificate, pocket card and any branch office license certificate shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

Department of Real Estate
Atten: Licensing Flag Section
P.O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on April 2, 2012.

DATED: 2/28, 2012

BARBARA J. BIGBY
Acting Real Estate Commissioner

EXHIBTIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ELR CAPITAL INC.; and ANTHONY AFSHIN KHANDAN, individually and as designated officer of ELR Capital Inc.,; Respondents.	H-37276 LA

DECLARATION

My name is ANTHONY AFSHIN KHANDAN and I am the designated officer of ELR CAPITAL INC. which is licensed as a real estate broker and/or has license rights with respect to said licenses. I am acting on behalf of and am authorized and empowered to sign this declaration on behalf of ELR CAPITAL INC.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedures Act (Sections 11400 et seq., of the Government Code) ELR CAPITAL INC. wishes to voluntarily surrender its real estate license issued by the Department

of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that ELR CAPITAL INC., by so voluntarily surrendering its license, can only have it reinstated in accordance with the provisions of Section 11522 of the Government Code. I also understand that by so voluntarily surrendering its license rights, ELR CAPITAL INC. agrees to the following:

The filing of this Declaration shall be deemed as ELR CAPITAL INC.'s petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by ELR CAPITAL INC. that, it waives all rights it has to require the Commissioner to prove the allegations contained in the Accusation ("Accusation") filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedures Act (Government Code Sections 11400 et seq.), and that it also waives other rights afforded to it in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross examine witnesses.

I further agree on behalf of ELR CAPITAL INC. that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-37276 LA may be considered by the Department to be true and correct for the purpose of deciding whether or not to grant reinstatement of ELR CAPITAL INC.'s license pursuant to Government Code Section 11522.

This Declaration is not an admission by ELR CAPITAL INC. as to the allegations in the Accusation. This Declaration is made for the purpose of reaching a resolution of allegations contained in the DRE Case number H-37276 LA, and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate is a party and shall not otherwise be admissible or relied upon by any third parties for any purpose.

I further agree on behalf of ELR CAPITAL INC. to pay the Commissioner's reasonable cost for the audit which led to this action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. ELR CAPITAL INC. will pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

I am aware that if ELR CAPITAL INC. petitions for reinstatement in the future, that payment of the audit costs will be a condition of reinstatement.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of ELR CAPITAL INC. to surrender its licenses and all license rights attached thereto.

Jan 31, 2012
Los Angeles, California

BY: ANTHONY AFSHIN KHANDAN
Designated Officer of
ELR CAPITAL INC.

FILED

MAR 12 2012

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ELR CAPITAL INC.; and ANTHONY AFSHIN KHANDAN, individually and as designated officer of ELR Capital Inc.,; Respondents.	H-37276 LA

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On May 13, 2011, an Accusation was filed in this matter against Respondent AFSHIN KHANDAN.

On January 30, 2012, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license rights pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent AFSHIN KHANDAN's petition for voluntary surrender of his real estate broker license rights is accepted as of the effective date of

this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated January 30, 2012, (attached as Exhibit "A" hereto). Respondent's license certificate, pocket card and any branch office license certificate shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

Department of Real Estate
Atten: Licensing Flag Section
P.O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on April 2, 2012.

DATED: 2/28, 2012

BARBARA J. BIGBY
Acting Real Estate Commissioner

EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ELR CAPITAL INC.; and ANTHONY AFSHIN KHANDAN, individually and as designated officer of ELR Capital Inc.,; Respondents.	)	H-37276 LA

DECLARATION

My name is ANTHONY AFSHIN KHANDAN and I am currently licensed as a real estate broker and/or have license rights with respect to said license. In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license rights issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

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I understand that by so voluntarily surrendering my license rights, I may be relicensed as a broker or as a salesperson by petitioning for reinstatement pursuant to Section 11522 of the Government Code. I also understand that by so voluntarily surrendering my license(s), I agree to the following:

1. The filing of this Declaration shall be deemed as my petition for voluntary surrender.

2. It shall also be deemed to be an understanding and agreement by me that I waive all rights I have to require the Commissioner to prove the allegations contained in the Accusation ("Accusation") filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that I also waive other rights afforded to me in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

3. I further agree that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-37276 LA, with respect to me may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

4. I further agree on behalf of ELR CAPITAL INC. to pay the Commissioner's reasonable cost for the audit which led to this action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly

salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. I will pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

I am aware that if I petition for reinstatement in the future, that payment of the audit costs will be a condition of reinstatement.

5. This Declaration is not an admission by ANTHONY AFSHIN KHANDAN as to the allegations in the Accusation. This Declaration is made for the purpose of reaching a resolution of allegations contained in the DRE Case number H-37276 LA, and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate is a party and shall not otherwise be admissible or relied upon by any third parties for any purpose.

6. I freely and voluntarily surrender all my licenses and license rights under the Real Estate Law.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed on January 30, 2012, at Los Angeles, California.

ANTHONY AFSHIN KHANDAN

ELLIOTT MACLENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED

MAY 13 2011

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of ELR CAPITAL INC.; and ANTHONY AFSHIN KHANDAN, individually and as designated officer of ELR Capital Inc., Respondents.	No. H-37276 LA A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ELR CAPITAL INC. and ANTHONY AFSHIN KHANDAN, individually and as designated officer of ELR Capital Inc., alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation.

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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

License History

A. ELR CAPITAL INC. ("ELRCI"). At all times mentioned, Respondent ELRCI was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate broker. On January 14, 2009, ELRCI was originally licensed as a corporate real estate broker. Respondent ELRCI was authorized to act by and through Respondent ANTHONY AFSHIN KHANDAN as ELRCI's broker designated pursuant to Business and Professions Code (hereinafter "Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

B. ANTHONY AFSHIN KHANDAN ("KHANDAN"). At all times mentioned, Respondent KHANDAN was licensed or had license rights issued by the Department as a real estate broker. On December 18, 2008, KHANDAN was originally licensed as a real estate broker. KHANDAN has been the designated officer of ELRCI since its inception.

C. ELR CAPITAL INC. is owned by KHANDAN, its president and secretary.

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Brokerage

4.

At all times mentioned, in the City of Encino, County of Los Angeles, ELRCI and KHANDAN acted as real estate brokers conducting licensed activities within the meaning of:

A. Code Section 10131(d). Respondents engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

During the final twelve months of the audit period, Respondents closed seven mortgage loans totaling $1,962,400.

B. Code Section 10131(d) and 10131.2. Respondents advertised, solicited and offered to provide loss mitigation and loan modification services to economically distressed homeowners seeking adjustments to the terms and conditions of their home loans including, but not limited to, repayment plans, forbearance plans, partial claims, and reduction in principal or interest, extenuations, foreclosure prevention and short sales.

During the audit period, Respondents attempted unsuccessfully to process nine loan modifications charging an average of $3,150 per loan modification applicant as an advance fees from economically distressed homeowner-borrowers.

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FIRST CAUSE OF ACCUSATION
(Audit Examination)

5.

On November 16, 2010, the Department completed an audit examination of the books and records of ELRCI pertaining to the mortgage loan brokerage, loan modification and advance fee activities only described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on January 14, 2009 to May 31, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 090280 and the exhibits and work papers attached to said audit report.

Trust Account

6.

Respondents did not maintain a trust account during the audit period.

Audit Violations

7.

In the course of activities described in Paragraph 4 above, and during the examination period described in Paragraph 5, Respondents ELRCI and KHANDAN acted in violation of the Code and the Regulations in which Respondents:

(a) Collected advance fees within the meaning of Code Section 10026 from homeowners seeking loan modification services wherein ELRCI did not have and thus failed to provide a pre-approved advance fee agreement from the Department, in violation

of Code Section 10085 and Regulation 2970.

(b) ELRCI failed to provide a complete description of services to be rendered provided to each prospective tenant in 10 point type font and failed to provide an allocation and disbursement of the amount collected as advance fees, in violation of Code Section 10146 and Regulation 2972.

(c) Changed ELRCI's address from 16250 Ventura Blvd., Suite 415, Encino, California, to 18136 Oxnard St., 43, Tarzana, California, without notification to the Department, in violation of Code Section 10162 and Regulation 2715.

(d) Failed to retain the salesperson license certificate for ELRCI's salesperson Amir James Khandan, in violation of Code Section 10160 and Regulation 2753;

(e) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker ELRCI's borrowers M. Ghoreyshi, P. Petrov, M. Kozai, F. Belka, E. Khandan, and M. Blade in violation of Code Section 10240 and Regulation 2840.

(f) Failed to maintain a control record in the form of a columnar record in chronological order of all trust funds including advance fees collected, deposited and disbursed in connection with loan modifications, in violation of Code Section 10145 and Regulation 2831.

(g) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all

trust funds in the form of advance fees collected, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.1.

(h) Commingled trust funds and personal funds by depositing trust funds in the form of advance fees collected for loan modifications from homeowners into ELRCI's general operating account, instead of depositing trust funds into a properly designated trust account in the name of the broker, in violation of Code Sections 10145 and 10176(e) and Regulation 2832(a).

(i) Failed to retain all records of ELRCI's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148.

8.

The conduct of Respondents ELRCI and KHANDAN described in Paragraph 7, violated the Code and the Regulations below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10085 and Regulation 2970
7(b)	Code Section 10146 and Regulation 2972
7(c)	Code Section 10162 and Regulation 2715
7(d)	Code Section 10160 and Regulation 2753

7(e)	Code Section 10240 and Regulation 2840
7(f)	Code Section 10145 and Regulation 2831
7(g)	Code Section 10145 and Regulation 2831.1
7(h)	Code Sections 10145 and 10176(e) and Regulation 2832(a)
7(i)	Code Section 10148

The foregoing violations constitutes cause for discipline of the real estate license and license rights of ELRCI and KHANDAN, as aforesaid, under the provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate Law and/or 10177(g) for negligence.

SECOND CAUSE OF ACCUSATION
(Negligence)

9.

The overall conduct of Respondents ELRCI and KHANDAN constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

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THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

10.

The conduct, acts and omissions of Respondents ELRCI and KHANDAN constitute a breach of fiduciary duty and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

FOURTH CAUSE OF ACCUSATION
(Lack of Supervision)

11.

The overall conduct of Respondent KHANDAN constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of ELRCI as required by Code Section 10159.2 and Regulation 2725, and to keep ELRCI in compliance with the Real Estate Law, with specific regard to trust fund handling, mortgage and loan brokering and loan modification services, and is cause for discipline of the real estate license and license rights of all Respondents pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents ELR CAPITAL INC. and ANTHONY AFSHIN KHANDAN, under the Real Estate Law (Part 1 of vision 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law including restitution of advanced fees paid for unearned loan modification services, and for costs of audit.

Dated at Los Angeles, California
this 25, April 2011.

Deputy Real Estate Commissioner

cc: ELR Capital Inc.
c/o Anthony Afshin Khandan D.O.
Maria Suarez
Sacto
Anthony Vo
Audits - Dorcas Chang