

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION  | COMPLAINT  | DATE OF ORDER          | PENALTY   |
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| <p>Section 81-885.24(5) by failing to maintain &amp; deposit in a separate account all money received in a real estate transaction; Section 81-885.24(26) by violating a rule or regulation adopted by the Commission, to wit: Ch. 3-002 by failing to maintain an accurate bookkeeping system; Ch. 3-004 by paying monies out of the trust account prior to the time they are due; Ch. 5-003.07 and 5-003.08 by failing to comply with 76-2401 through 76-2430 in the following: 76-2422(4) by acting as a dual agent without obtaining the written agreement of the seller &amp; the buyer; Ch. 5-003.10 by failing give sellers those categories of cost they will be expected to pay at closing &amp; to prepare an estimate; Ch. 5-003.11 by failing to give prospective purchaser those categories of cost the purchaser will be expected to pay at closing &amp; by failing to prepare an estimate; Ch. 5-003.14 by failing to deposit earnest money in 48 hours; Ch. 5-003.12 by failing to supervise his salesperson; and 81-885.24(29) by demonstrating negligence or unworthiness to act as a Broker.</p> | <p>97-005, 97-006 - Commission vs. Harold S. Kaufman</p> | <p>April 17, 1997</p>  | <p>Stipulation and Consent Order. License suspended two years, with entire period served on probation, plus 12 hours additional continuing education, 3 hours in license law, 6 hours in bookkeeping, and 3 hours in disclosures.</p> |
| <p>Section 81-855.24(19) by violating a rule or regulation adopted by the Commission; Ch. 3-002 by failing to maintain an accurate bookkeeping system, Ch. 5-003.07 by failing to comply with 76-2410 through 76-2430, to wit: 76-2421 by failing to properly complete and retain an agency pamphlet, 76-2420 by failing to adopt a written agency policy; Ch. 5-003.08 by failing to write a disclosure on dual agency in accordance with 76-2422(4) by not having a written agreement of the seller &amp; buyer or landlord &amp; tenant permitting the designated broker to serve as a dual agent; Ch. 5-003.10 by failing to give seller closing costs &amp; failing to prepare a written estimate or have one signed; Ch. 5-003.11 by failing to give purchaser closing costs &amp; failing to prepare a written estimate or have on signed; Ch. 5-003.14 by failing to deposit earnest money in 48 hours; Ch. 5-003.22 by failing to supervise; Ch. 5-003.23 by failing to give a copy of the</p>  | <p>97-036 - Commission vs. Glenda Harders</p>            | <p>August 19, 1997</p> | <p>Stipulation and Consent Order. License suspended two years, plus 6 hours continuing education, 3 hours in agency law and 3 hours in trust accounts.</p>  |

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| disclosure statement to the purchaser or their agent; Ch. 5-003.24 by failing to give a copy of the disclosure statement to the purchaser or get signed receipt; 81-855.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Broker.  | 97-036 - Commission vs. Glenda Harders   |               |  |
| Section 76-2422(6) by failing to perform the terms of the Management Agreements by not sending excess rents to the banker, authorizing payment of invoices without first obtaining permission, and disclosing confidential financial information when the Respondent was not required by statute, rule or regulation to do so and 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker.  | 98-008 - Commission vs. Thomas D. Eacker | May 19, 1998  | Stipulation and Consent Order. License suspended for 30 days, followed by 90 days served on probation, from May 19, 1998 through September 19, 1998, with an additional 6 hours of continuing education to include three hours in law and three hours in property management to be completed by November 14, 1998. |
| Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically Title 299, NAC, Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly disclose full compliance with the laws relating to the maintaining of trust accounts; Ch. 5-003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or the purchaser or the agent of the purchaser, on or before the effective date of any contract which binds the purchaser to purchase the residential real property; Ch. 5-003.24 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property and to obtain the signed receipt of the purchaser; Ch. 5-003.13 by failing to identify to the seller, in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing and to prepare a written estimate of the costs the seller will be expected to pay at closing; Ch. 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time an offer is | 98-015 - Commission vs. Fred L. Swett    | May 19, 1998  | Stipulation and Consent Order. License suspended for 2 years with said suspension stayed and served on probation, plus 12 additional hours of continuing education to include 3 hours in trust accounts, 3 hours in disclosures, 3 hours in agency, and 3 hours in rules and regulations.                          |

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| prepared by the purchaser or a counteroffer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing and a written estimate of the costs the purchaser will be expected to pay at closing; (f) Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2401 through 76-2430, in particular, 76-2417 by representing a seller without a written listing agreement, 76-2421 by failing to provide, at the earliest practicable opportunity during or following the first substantial contact with the seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with as designated broker, a written disclosure regarding agency, 76-2422 by failing to authorize affiliated licensees, in writing, what agreements may be entered into on behalf of the Respondent; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a broker.   | 98-015 - Commission vs. Fred L. Swett          |                   |  |
| Section 76-2417 and 76-2422 by failing to obtain the written agreement of the seller and buyer permitting him to act as a dual agency.  | 1999-012 - Judy Wiles vs. Albert T. Schmuecker | June 29, 1999     | Stipulation and Consent Order. License censured.   |
| Section 81-885.24(19) by failing to include a date of expiration on the listing contract; 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, specifically: Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintaining of trust accounts; Ch. 5-003.10 by failing to identify to the seller, in writing, at the time the offer was presented and accepted, those categories of cost the seller would be expected to pay at closing, failing to prepare a written estimate of the costs the seller would be expected to pay at closing, and failing to obtain the signature of the seller on said document; Ch. 5-003.11 failing to identify to the purchaser, in writing, at the time an offer was written by the purchaser or a counter-offer was accepted by the purchaser, those categories of costs the | 1999-035 - Commission vs. Charles E. Degaillez | December 14, 1999 | Stipulation and Consent Order. License suspended for two years, with said suspension stayed and served on probation, from December 14, 1999 through December 13, 2001; plus twelve (12) hours of additional continuing education to include three (3) hours in trust accounts, three (3) hours agency, three (3) hours in license law, and three (3) hours in disclosures. |

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| <p>purchaser would be expected to pay at closing, failing to prepare a written estimate of the costs the purchaser would be expected to pay at closing and failing to obtain a signature of the purchaser on said written document; Ch. 5-003.14 by failing earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted, in writing, unless otherwise provided in the purchase agreement; Ch. 5-003.24 and Section 71-2120 by, when acting as an agent of the purchaser, the Respondent failed to obtain the signed receipt of the purchaser on the Seller Property Condition Disclosure Statement; Ch. 5-003.07 and Ch. 5-003308 by failing to comply with Section 76-2401 through 76-2430 in the following particulars: 76-2421 by failing to provide a written copy of , or properly complete, the current brokerage disclosure pamphlet to a seller or buyer who is not entered into a written agreement for brokerage services with a designated broker at the earliest practicable opportunity during or following the first substantial contact, 76-2419 by failing to obtain the written consent of the buyer and seller to act as a dual agent, 76-2422 and 76-2417 by acting as a limited agent for the seller without entering into a written agency agreement; 81-8853.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker.</p> | <p>1999-035 - Commission vs. Charles E. Degaillez</p> |                        |   |
| <p>Section 76-2417(1)(c)(ii) by failing to present written offers to the Seller, through the Court appointed Temporary Conservator in a timely manner regardless of whether the property is subject to a contract for sale or lease of a letter of intent to lease; 76-2422(2) by failing to enter into a written agency agreement with the Seller, which includes the Respondent's duties and responsibilities specified in 76-2417, the terms of the compensation, and whether an offer of subagency shall be made to any other designated broker before engaging in any of the activities enumerated in 81-885.01(2).</p>   | <p>2000-025 - Commission vs. Roger Theodore Waldo</p> | <p>October 2, 2000</p> | <p>Stipulation and Consent Order. License suspended for thirty (30) days from October 2, 2000 through October 31, 2000, with entire period stayed and served on probation; plus an additional 6 hours of continuing education, including 3 hours in the area of agency and 3 hours in the area of contracts to be completed by April 1, 2001.</p> |

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| <p>Section 76-2421 by failing, at the earliest practicable opportunity during or following the first substantial contact with the Buyers who had not entered into a written agreement for brokerage services with the designated broker, to provide the Buyers with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the Commission, by failing to disclose in writing the types of brokerage relationships the Respondent is offering to the Buyers and by failing to disclose in writing to the Buyers who Respondent is representing; 76-2422(4) by acting as a dual agent without obtaining the written agreement of the Buyer and Seller; 76-2419(1) by acting as a dual agent without the informed consent of all parties to the transaction; 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act; specifically, the stipulated facts demonstrate a violation of Title 299, NAC, Ch. 5-003.09 by acting for more than one party in a transaction without the informed written consent of all parties involved in the transaction; 81-884.24(29) by demonstrating negligence.</p> | <p>2001-007 - Terry &amp; Pamela Weldin vs. H. James Merrigan</p> | <p>May 22, 2001</p> | <p>Stipulation and Consent Order. License suspended for thirty (30) days, with entire period stayed and served on probation from May 22, 2001, through June 20, 2001; plus an additional six (6) hours of continuing education including three (3) hours in the area of agency and three (3) hours in the area of disclosures to be completed by November 21, 2001.</p>   |
| <p>Section 81-885.21(2) by failing to notify the Commission of the name of the bank in which a trust account is maintained and provide the name of the account on forms provided by the Commission; 81-885.24(26) by violating any rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with Nebraska Real Estate License Act, specifically: Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which clearly and accurately discloses full compliance with the laws relating to the maintaining of trust accounts; Ch. 3-006 by failing, in the case of cooperative sales between brokers, to forthwith transfer earnest money to the listing broker; Ch. 5-003.10 by failing to identify in writing to the seller at the time an offer is presented and accepted, those categories of cost the seller will be expected to pay at closing, as well as preparing a written estimate of the costs the seller will be expected to pay at closing; Ch. 5-003.11 by failing to identify</p>  | <p>2001-015 - Commission vs. Elaine R. Richman</p>                | <p>May 22, 2001</p> | <p>Stipulation and Consent Order. Broker's license surrendered on May 29, 2001, and Salesperson's license issued on suspension from May 29, 2001, through June 11, 2001; salesperson license can only be active under supervision of Bruce R. Richman; plus an additional six (6) hours of continuing education to include three (3) hours in the area of agency and three (3) hours in the area of disclosures to be completed by November 21, 2001.</p> |

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| <p>in writing to a purchaser, at the time an offer is written by the purchaser or a counter offer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing as well as preparing a written estimate of the costs the purchaser will be expected to pay at closing; Ch. 5-003.14 by failing to deposit any funds received as earnest money within 48 hours or before the end of the next banking day after an offer is accepted, in writing, unless otherwise provided in the purchase agreement; 76-2421(1) by failing, at the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with the designated broker, to disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; 76-2422(4) by acting as a dual agent without first obtaining a written agreement of the seller and buyer or landlord or tenant permitting the designated broker to serve as a dual agent in the proposed transaction; 76-2422(2) by acting as a selling agent without entering into a written agency agreement with a seller in a transaction; 81-885.24(29) by demonstrating negligence.</p> | <p>2001-015 - Commission vs. Elaine R. Richman</p>                            |                         |   |
| <p><u>Kirkeby</u>: Title 299, N.A.C. Ch. 5-003.14 by the failure of his associate broker to deposit funds received as earnest money deposits within 48 hours or before the end of the next banking day after an offer is accepted, in writing; Ch. 5-003.22 by failing to supervise his associate brokers and salespersons, specifically Respondent Dreyer, in the transactions set forth herein above; 76-2420(1) by failing to adopt a written policy which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities. <u>Dreyer</u>: Title 299, N.A.C. Ch. 2-003 as his advertising for the parcels in question failed to include all forms of identification, representation, promotion and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity; respondent Dreyer's advertising</p>  | <p>2001-046 - Commission vs. Kenneth Lloyd Kirkeby &amp; Melvin R. Dreyer</p> | <p>January 24, 2002</p> | <p><u>Kirkeby</u>: Stipulation and Consent Order. License suspended for thirty (30) days from February 4, 2002, through March 5, 2002; plus an additional nine hours of continuing education including three (3) hours in the area of agency, three (3) hours in the area of license law, and three (3) hours in the area of disclosures to be completed by August 4, 2002. <u>Dreyer</u>: Stipulation and Consent Order. License suspended for sixty (60) days from February 4, 2002, through April 4, 2002; plus an</p> |

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| <p>was not under the direct supervision of his broker and was not in the name his broker was conducting business as recorded with the Commission. Said advertising constitutes misleading or inaccurate advertising pursuant to 81-885.24(2) of the Nebraska Real Estate License Act; Ch. 5-003.09 by acting for more than one party in a transaction without the Nebraska-approved informed written consent of all parties involved in the transaction as required by the Rules and Regulations of the Commission. Respondent Dreyer failed to obtain the written agreement of said parties as well as Respondent Dreyer's employing broker prior to acting in such a manner in a form required by the Rules and Regulations of the Commission; 81-885.24(24) by failing to deposit within forty-eight (48) hours, in the trust account of his employing broker, deposit money entrusted to him by any person dealing with him as the representative of his licensed broker; Ch. 5-003.23 by failing, as the agent of the Seller, to assure that a copy of the Seller Property Condition Disclosure Statement approved by the Commission was delivered to the purchaser or to the agent of the purchaser on or before the effective date of any contract entered into on or after January 1, 1995, which binds the purchaser to purchase the residential real estate property; 76-2421(1)(a)&amp;(b) by failing at the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, to provide that person with a written copy of the current brokerage disclosure pamphlet prepared and approved by the Commission; 76-2422(2) by failing, before engaging in any of the activities enumerated in subdivision (2) of 81-885.01, to enter into a Nebraska written Agency Agreement with the Seller, which agreement shall include a licensee's duties and responsibilities as specified in 76-2417, the terms of compensation, and whether an offer of subagency may be made to any other designated broker; 76-2422(3) by entering into a written Agency Agreement with the Buyer which did not meet the requirements of the</p> | <p>2001-046 - Commission vs. Kenneth Lloyd Kirkeby &amp; Melvin R. Dreyer</p> |               | <p>additional nine (9) hours of continuing education including three (3) hours in the area of agency, three (3) hours in the area of license law, and three (3) hours in the area of disclosures to be completed by August 4, 2002.</p> |

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| <p>Nebraska Agency Relationships Statutes. Said Agreement shall include a licensee's duties and responsibilities as specified in 76-2418, the terms of compensation, and whether an offer of subagency may be made to any other designated broker; 76-2422(4) by failing to obtain the written agreement of the seller and buyer permitting the designated broker to serve as a dual agent in the proposed transaction in a form required by the Agency Relationships Statutes before engaging in any of the activities enumerated in subdivision (2) of 81-885.01. Respondent Dreyer's South Dakota Real Estate Relationships Disclosure form further failed to include a licensee's duties and responsibilities as specified in 76-2419 or the terms of compensation; 81-885.24(2) by using advertising which is deemed misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted, in that the auction sale bill, failed to identify the name under which Respondent Dreyer's designated broker is conducting business as recorded with the Commission; 81-885.24(29) by demonstrating negligence to act as a broker, associate broker, or salesperson by utilizing individuals not licensed to sell real estate in Nebraska when selling the four parcels in question.</p> | <p>2001-046 - Commission vs. Kenneth Lloyd Kirkeby &amp; Melvin R. Dreyer</p> |                        |  |
| <p>Title 299, Ch. 5-003.13 by accepting other than cash or an immediately cashable check as earnest money unless such fact is communicated to the owner prior to his or her acceptance of the Offer to Purchase, and such fact is shown in the earnest money receipt; 76-2422(4) in that the Respondent failed before engaging in any of the activities enumerated in Subdivision 2 of 81-885.01 to obtain the written agreement of the seller and the buyer permitting the designated broker, to serve as a dual agent in the proposed transaction and failed to include a licensee's duties and responsibilities as specified in 76-2419; 81-885.24(29) by demonstrating negligence, to act as a broker, associate broker or salesperson.</p>  | <p>2001-045 - Larry &amp; Sondra Kotas vs. Leonard Ray Prall</p>              | <p>August 21, 2002</p> | <p>Stipulation &amp; Consent Order. License suspended for forty-five (45) days from September 15, 2002, through October 29, 2002; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of license law to be completed by February 20, 2003.</p> |

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| <p>Section 76-2422(4) by failing to obtain the written consent of the seller and buyer, permitting Respondent Earl, as the authorized affiliated licensee for his designated broker, to serve as a dual agent before engaging in any of the activities enumerated in Subdivision (2), 81-885.01, by failing to include in a licensee's duties and responsibilities specified in 76-2419 , and by failing to disclose the terms of compensation; 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a salesperson.</p>  | <p>2003-008 - Steven Buchanan vs. Michael Patrick Earl and John Francis Lund, Jr.</p> | <p>November 12, 2003</p> | <p><u>Lund</u>: Dismissed.<br/><u>Earl</u>: Stipulation &amp; Consent Order. License censured; plus an additional 3hours of continuing education in the area of agency to be completed by January 12, 2004.</p>   |
| <p><u>Haer</u>: Respondent Haer failed to timely complete an Acknowledgment of Disclosure statement with the buyers. Respondent Haer further agrees that he shall be considered a buyer's limited agent unless he obtains a written agency agreement from the seller, as specified in 76-2416(2). Respondent Haer agrees that he should have obtained, at the time of listing the property for sale, the written consent of the seller/builder and the buyers to serve as dual agent. Therefore, violated 76-2422(4); 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a salesperson; and 76-2421(1) by failing at the earliest practicable opportunity during or following the first substantial contact with a buyer to provide the buyers with a written copy of the current brokerage disclosure pamphlet which had been prepared and approved by the Commission, and failed to timely disclose in writing to the buyers the types of brokerage relationships the designated broker and affiliated licensees are offering to the buyers or to disclose in writing to the buyers which party the Respondents were representing. <u>Nieman</u>: Respondent Nieman did not complete an Acknowledgment of Disclosure statement with the buyers until June 19, 2002. Therefore, violated 76-2421(1) by failing at the earliest practicable opportunity during or following the first substantial contact with a buyer to provide the buyers with a written copy of the current brokerage disclosure pamphlet which had been prepared and approved by the Commission, and failed to timely disclose in writing to the buyers the types of brokerage relationships the designated broker and affiliated licensees</p> | <p>2003-047 - Commission vs. Gregory G. Haer &amp; Roger A. Nieman</p>                | <p>November 12, 2003</p> | <p><u>Haer</u>: Stipulation &amp; Consent Order. License censured; plus an additional 6 hours of continuing education, including 3 hours in the area of agency and 3 hours in the area of contracts, to be completed by February 9, 2004.<br/><u>Nieman</u>: Stipulation &amp; Consent Order. License censured; plus an additional 3 hours of continuing education in the area of agency to be completed by February 9, 2004.</p> |

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| are offering to the buyers or to disclose in writing to the buyers which party the Respondents were representing; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a salesperson.  | 2003-047 - Commission vs. Gregory G. Haer & Roger A. Nieman |                  |   |
| Section 81-885.24 (3) Failing to account for and remit any money coming into his possession belonging to others; Neb. Rev. Stat. § 81-885.24 (4) Co-mingling client money or other property with his own; Neb. Rev. Stat. § 81-885.24 (5) Failing to maintain and deposit into a separate non-interest bearing checking account all money received by him unless all parties having an interest in the funds have agreed otherwise in writing; Neb. Rev. Stat. § 81-885.24 (22) Making a substantial misrepresentation; Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker; Neb. Rev. Stat. § 76-2421 (1) for failing, at the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; and, Neb. Rev. Stat. 76-2422 (6) by failing, before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418, to enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. | 2003- 038 - Commission vs. Mark Lester Stecker              | January 12, 2005 | Stipulation & Consent Order dated January 12, 2005. License suspended for two (2) years from date license of license renewal for 2005 plus an additional six (6) hours of continuing education, including three (3) in farm brokerage and three (3) in farm management to be completed within the two year suspension period. If not completed the suspension remains in effect until successful completion of the courses. |

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| <p>Section 76-2422 (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker; and Neb. Rev. Stat. § 81-885.24 (29) by demonstrating negligence to act as a broker.</p>  | <p>2005-047 - Commission vs. Nada Resnik-McNenny</p> | <p>November 16, 2005</p> | <p>Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of agency, and three (3) hours in the area of license law to be completed by February 14, 2006.</p>      |
| <p>Section 76-2418 (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease, by failing to present the Offer in Transaction #1 in a timely manner; Neb. Rev. Stat. §76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a</p> | <p>2006-030 - Commission vs. Daniel Jay Dunne</p>    | <p>June 14, 2006</p>     | <p>Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of license law and three (3) hours in the area of agency, all to be completed by September 12, 2006.</p> |

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| <p>licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property, by failing to have the seller sign the Consent To Dual Agency Agreement in Transaction #3 until February 3, 2006, which was the day following acceptance of the Offer by the seller; and Neb. Rev. Stat. §81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Dunne failed to present an Offer to the seller in a timely manner; Dunne inaccurately disclosed to a buyer that he was acting as a limited Buyer's Agent when he was actually acting as a limited Seller's Agent; and Dunne failed to have the seller sign the Consent To Dual Agency Agreement until February 3, 2006, which was the day following acceptance of the Offer.</p>  | <p>2006-030 - Commission vs. Daniel Jay Dunne</p> |                        |   |
| <p>Section 76-2417 (1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (iii) Disclosing in writing to the client all adverse material facts actually known by the licensee; and (iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee; (2) A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action for any person shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure; Neb. Rev. Stat. § 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage</p> | <p>2006-039 – Commission vs. Ronald A. Henn</p>   | <p>August 24, 2006</p> | <p>Stipulation and Consent Order. License suspended for a period of one (1) year with the first four (4) months served on actual suspension and the remainder of the suspension stayed and served on probation. Suspension period to commence on September 1, 2006. Plus an additional twelve (12) hours of continuing education with (3) hours each being in the areas of agency, license law, disclosures, and ethics, all to be completed by January 31, 2007.</p> |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT                                       | DATE OF ORDER | PENALTY |
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| <p>services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; Neb. Rev. Stat. § 76-2422 (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker; Neb. Rev. Stat. § 81-885.24 (22) Making any substantial misrepresentations; Neb. Rev. Stat. § 81-885.24 (23) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts; Neb. Rev. Stat. § 81-885.24(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act; Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson; Title 299 Chapter 3-007 In the event of a dispute over the return or forfeiture of any earnest deposit held by a broker, the broker shall continue to hold said deposit in his or her trust account until he or she has a written release from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time the broker may pay it into court; and, Title 299 Chapter 5 -003.09 Failure to obtain the informed written, signed, and dated consent of all parties involved in a transaction prior to a licensee acting for more than one party in the transaction. Informed written consent means that the licensee must obtain the written</p> | <p>2006-039 - Commission vs. Ronald A. Henn</p> |               |         |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

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| <p>agreement of said parties, as well as the licensee's employing broker, prior to acting in such a manner. A copy of said informed written consent shall be signed, dated, and maintained in the transaction file in accordance with 299 NAC 3-001. If no transaction results then the informed written consent shall be maintained by the licensee's employing broker for five years after the date of the agreement.] Henn failed to disclose an adverse material fact to the sellers; failed to advise the sellers to seek legal advice regarding statements made by a buyer; failed to advise the sellers regarding the earnest money deposit received from the buyer; and failed to advise the sellers regarding the effect of the assignment of the sale from one buyer to another buyer; Henn negotiated the assignment of the sale between sellers and buyer, to another buyer, without the consent of the sellers; Henn failed to advise a buyer to seek legal advice pertaining to a refund of the buyer's earnest money deposit; Henn disclosed confidential information to a buyer pertaining to the net price the sellers would take for the property; Henn negotiated the terms of the sale with a buyer before he entered into a listing agreement with the sellers; Henn did not have a listing agreement with one of the buyers (now the seller) when he negotiated the assignment of the sale from the buyer to another buyer; Henn assisted in the procurement of a buyer on property he did not have listed for sale; Henn failed to complete an agency disclosure with the sellers on his first substantial contact; Henn falsely disclosed to the sellers and a buyer that he was acting as a sellers' agent when he was in fact a buyer's agent; Henn failed to complete an agency disclosure with a buyer disclosing which party he was representing in the transaction; Henn falsely disclosed his agency status to both the sellers and one of the buyers; Henn falsely advised the sellers about statements made by a buyer pertaining to the buyer completing the transaction; Henn failed to inform the sellers that he was assisting the original buyer in an assignment of the buyer's interest in the contract to another buyer; Henn disbursed the buyer's earnest money to the</p> | <p>2006-039 - Commission vs. Ronald A. Henn</p> |               |         |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT   | DATE OF ORDER          | PENALTY  |
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| <p>seller when the return of such money was disputed by the buyer; Henn improperly returned a buyer's earnest money to the buyer; Henn failed to obtain the written consent of the buyer and the sellers to act as a limited dual agent in the transaction; and Henn demonstrated negligence, incompetence, or unworthiness to act as a broker for violating all of the above.</p>  | <p>2006-039 - Commission vs. Ronald A. Henn</p>                   |                        |  |
| <p>Section 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; 76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall</p> | <p>2006-025 - Gary and Patty Cranmer vs. Joan Elizabeth Kuehl</p> | <p>October 5, 2006</p> | <p>Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of license law and three (3) hours in the area of agency to be completed by January 3, 2007.</p> |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT  | DATE OF ORDER    | PENALTY  |
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| confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property; 81-885.24 (16) Violating any provision of sections 76-2401 to 76-2430; and 81-885.24 (29) Demonstrating negligence to act as a broker. Kuehl failed to complete a commission-approved Agency Acknowledgment of Disclosure with the seller and buyer and Kuehl failed to obtain the informed written consent of the seller and buyer authorizing her to serve as a dual agent in the transaction.  | 2006-025 - Gary and Patty Cranmer vs. Joan Elizabeth Kuehl     |                  |  |
| Section 76-2422 (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker; Title 299 Chapter 5-003.18 Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence to act as a broker, specifically, Fox failed to obtain a signed Listing Agreement from the seller when listing the property; Fox failed to reduce the Polaks' offer to writing when the Polaks requested their offer be submitted; and Fox failed to contact the Polaks after advising them he would if an Offer was received from any other buyer. | 2006-055 - Henry A. and Maxine M. Polak vs. Michael Steven Fox | February 7, 2007 | Stipulation and Consent Order. License censured; plus nine (9) hours of additional continuing education with three (3) hours in the area of license law, three (3) hours in the area of agency, and three (3) hours in the area of ethics to be completed by August 6, 2007. |
| Section 76-2419 (1) A licensee may act as a dual agent only with the informed consent of all parties to the transaction. The informed consent shall be evidenced by a written agreement pursuant to Neb. Rev. Stat § 76-2422. Newburn failed to obtain the informed written consent of all parties to the transaction to act as a limited Dual Agent.   | 2007-023 - Kevin Delong vs. Debbie A. Newburn                  | October 11, 2007 | Stipulation and Consent Order. License censured; plus six (6) hours of additional continuing education with three (3) hours in the area of agency and three (3) hours in the area of license law to be completed by April 8, 2008.   |

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| VIOLATION   | COMPLAINT   | DATE OF ORDER      | PENALTY   |
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| <p>Section 76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property, for failing to obtain the written consent of buyer and seller permitting him to act as a limited Dual Agent in the transaction; 81-885.24 (22) Making any substantial misrepresentations for misrepresenting himself in the Purchase Agreement and throughout the transaction to be a limited Buyer's Agent when actually he was acting as a limited Dual Agent without the written consent of buyer and seller permitting him to act as a limited Dual Agent in the transaction; and 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson for misrepresenting himself in the Purchase Agreement and throughout the transaction to be a limited Buyer's Agent in the transaction and for failing to obtain the written consent of buyer and seller permitting him to act as a limited Dual Agent in the transaction.</p> | <p>2008-014 - Commission vs. Michael Patrick Earl</p> | <p>May 5, 2008</p> | <p>Stipulation and Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of agency to be completed by November 1, 2008.</p> |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT   | DATE OF ORDER         | PENALTY   |
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| <p>Section 76-2422 (6) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker' duties and responsibilities exceed those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. Any agreement under this subsection shall be subject to the common law requirements of agency applicable to real estate licensees; and violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker. Paladino failed to have a written common law management agreement with Complainant, and, charged Complainant expenses which should have been charged to the new property owner.</p>   | <p>2008-018 - Scott Annon Boyer vs. David Joseph Paladino</p> | <p>April 17, 2009</p> | <p>Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education with three (3) hours in the area of agency and three (3) hours in the area license law, to be completed by October 14, 2009.</p> |
| <p>Section 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; for failing to complete an Agency Acknowledgment of Disclosure on first substantial contact with the buyers; and violated 76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated</p> | <p>2009-020 - Commission vs. Candice Jo Troia</p>             | <p>May 21, 2009</p>   | <p>Stipulation and Consent Order. License censured; plus an additional three (3) hours of additional continuing education in the area of agency, to be completed by November 22, 2009.</p>  |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

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| <p>broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property. Troia failed at the time the transaction became property specific, to have the seller and buyers re-sign the Consent To Dual Agency Agreement thereby reconfirming Troia's status as a limited Dual Agent in the transaction.</p> | <p>2009-020 - Commission vs. Candice Jo Troia</p>  |                     |  |
| <p>Section Title 299 Chapter 3 Section 002 Every broker shall maintain a bookkeeping system which will accurately and clearly disclose full compliance with the law relating to the maintaining of trust accounts. Lunz failed to maintain a bookkeeping system during the trust account examination periods ending January 25, 2007, and January 6, 2009. Violated Title 299 Chapter 3 Section 004 Funds deposited in the trust account will necessarily include monies which will ultimately belong to the broker but such monies shall be separately identified in his or her trust account records and shall be paid to the broker by check drawn on the trust account after the same are due the broker. The fact that a trust account contains money belonging to the broker does not constitute "commingling the money or other property of his or her principals with his or her own," as prohibited by Subsection (4) Section 81-885.24 of the Nebraska Real Estate License Act. Lunz failed to properly account for</p>  | <p>2009-025 - Commission vs. Patricia Ann Lunz</p> | <p>May 21, 2009</p> | <p>Stipulation and Consent Order. License suspended for a period of two (2) years, with the entire suspension period stayed and served on probation commencing on May 26, 2009, and continuing through May 26, 2011; plus an additional twelve (12) hours of continuing education with three (3) hours in agency, three (3) hours in contracts, three (3) hours in license law, and three (3) hours in trust accounts, to be completed by November 22, 2009.</p> |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION  | COMPLAINT  | DATE OF ORDER        | PENALTY  |
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| <p>personal funds maintained in the trust account. Violated Neb. Rev. Stat. § 76-2422 (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker. Lunz failed to have a written agency agreement in place with a seller when representing the seller in the real estate transaction. And violated 81-885.24 (29) Demonstrating negligence, incompetence, or unworthiness to act as a broker, associate broker, or salesperson. Lunz failed to maintain a bookkeeping system for the trust account examination periods ending January 25, 2007, and January 6, 2009; failed to properly account for her personal funds maintained within the trust account; and failed to have written agency agreement in place with a seller when representing the seller in the real estate transaction.</p> | <p>2009-025 - Commission vs. Patricia Ann Lunz</p> |                      |  |
| <p>Section 76-2417 (1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity. Kester allowed this transaction to close, and failed to obtain the required Deed of Reconveyance from U.S. Bank as required by the Title Insurance Commitment date April 10, 2008. Violated 76-2422 (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker, except that if a licensee is a limited</p>   | <p>2009-019 - Commission vs. Sandra Kay Kester</p> | <p>June 30, 2009</p> | <p>Stipulation and Consent Order. License suspended for a period of six (6) months, with the first thirty (30) days served on suspension and the remainder of the suspension period stayed and served on probation. The suspension commenced on July 28, 2009, and will continue through August 27, 2009. The probationary period will commence on August 28, 2009, and continue through January 26, 2010; plus an additional nine (9) hours of continuing education with three (3) hours in the area of license law, three (3) hours in the area of contracts and three (3) hours in the area of agency, to be completed by</p> |

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| VIOLATION   | COMPLAINT  | DATE OF ORDER            | PENALTY  |
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| <p>seller's agent for a builder, the terms of compensation may be established for a specific new construction property on or before the builder's acceptance of a contract to sell. Kester failed to have a written listing agreement with the seller. Violated 76-2421 (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing. Kester failed to complete an Agency Disclosure with the buyers on September 21, 2007. And violated 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Kester failed to obtain a Deed of Reconveyance from U. S. Bank as required by the Title Insurance Commitment issued on April 10, 2008, failed to have a written Listing Agreement with the seller and failed to complete an Agency Disclosure with the buyers.</p> | <p>2009-019 - Commission vs. Sandra Kay Kester</p> |                          | <p>December 27, 2009.</p>  |
| <p>Long violated: Neb. Rev. Stat. § 76-2422 (6) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. Any agreement under this subsection shall be subject to the common-law requirements of agency applicable to real estate licensees and violated: Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence,</p>   | <p>2009-024 - Richard Pearce vs. Taryn Jo Long</p> | <p>February 27, 2010</p> | <p>Stipulation and Consent Order. License suspended for a period of one (1) year, with the entire period served on probation, which began February 27, 2010, and will run through February 27, 2011. A civil fine of \$2000.00, due March 28, 2010; plus an additional nine (9) hours of continuing education to include three (3) hours in the area of agency law, three (3) hours in the area of contracts and three (3) hours in the area of ethics must be completed by August 26, 2010.</p> |

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| incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section. Long failed to mail the pictures to the Owner in a timely manner, failed to deposit trust funds totaling \$1,500.00 into her real estate trust account in a timely manner, incurring expenses on the Owner' behalf when Long did not have sufficient funds from the Owner or rental income to pay for such repairs.  | 2009-024 - Richard Pearce vs. Taryn Jo Long      |                   |   |
| Violated Neb. Rev. Stat. § 76-2417(1)(b) for failing to exercise reasonable skill and care for the Seller, and, (c) failing to promote the interest of the Seller; for failing to present the Seller's Counter-Offer to the Buyer in a timely manner; Neb. Rev. State § 76-2422 in that the Listing Agreement failed to include the duties and responsibilities of a limited Seller's Agent; Neb. Rev. Stat § 81-885.24(16) Unfair trade practice for violating any provision of sections 76-2401 to 76-2430; and 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson for violating Neb. Rev. Stat. §§ 76-2417 (1) (b) (c); 76-2422; and 81-885.24 (16).  | 2009-055 - Commission vs. Michelle Lynn Crowell  | February 17, 2011 | Stipulation and Consent Order. License is censured; plus an additional six (6) hours of continuing education in "Agency Law" and "Contracts" to be completed by June 17, 2011; plus pay a civil fine in the amount of \$500.00 on or before March 18, 2011.   |
| Violated Neb. Rev. Stat. § 76-2417(1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of the written agreement made with the client; (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity by providing the sellers with two false closing dates, and failing to advise the sellers that by signing the Addendum to the Purchase Agreement, it would reduce their net proceeds by \$500.00; Redwine violated Neb. Rev. Stat. § 81-885.24(16) by failing to obtain the informed written consent of both the Sellers and the Buyer permitting her to act as a dual agent for the proposed sale/purchase of the Property; Redwine violated Neb. Rev. Stat. § 81-885.24(19) in that she failed to include a fixed date of expiration in her Listing Agreement | 2011-023 – Commission vs. Beverly Arlene Redwine | August 19, 2011   | Stipulation and Consent Order. License is suspended for a period of ninety (90) days with the first fifteen (15) days served on suspension and the remainder stayed and served on probation. The suspension period commenced on August 25, 2011, and continued through September 8, 2011. The probation period commenced on September 9, 2011, and continues through November 23, 2011.; plus complete an additional nine (9) hours of continuing education to include three (3) hours in Agency, three (3) hours in Contracts and three (3) hours in |

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| <p>with the Sellers of the Property; Redwine violated Neb. Rev. Stat. § 81-885.24(22) in that she misrepresented in the Purchase Agreement that she was acting as a dual agent, at a time when she had never met the Buyer; Redwine violated Neb. Rev. Stat. § 81-885.24(26) violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act, and, Title 299 Chapter 5-003.10, in that she failed to have the sellers sign and date the Sellers' "Estimated" Closing Cost Statement; Redwine violated Neb. Rev. Stat. § 81-885.24(29) demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, by violating Neb. Rev. Stat. § 76-2422 (4), 81-885.24 (16), (19), (22) and 299 NAC 5-003.10, and by failing to identify in the Offer to Purchase how the buyer intended to pay the remainder balance of \$239,000.00.</p>   | <p>2011-023 – Commission vs. Beverly Arlene Redwine</p> |                           | <p>License Law to be completed by December 22, 2011.</p>  |
| <p>Violated Neb. Rev. Stat. § 81-885.24(3) Failing to account for and remit any money coming into his possession belonging to others; Crawford withheld rent proceeds from the Sellers and threatened to withhold the security deposit unless Sellers released Crawford from the Management Agreement. Crawford violated Neb. Rev. Stat. § 76-2417 (1)A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of the written agreement made with the client; Crawford failed to perform the terms of the Management Agreement he had with the Sellers which required that he disburse the security deposit and other deposits, and it provided that either party may terminate the Agreement by providing thirty (30) days written notice. Crawford withheld rent proceeds and threatened to withhold the proceeds of the security deposit, unless Sellers released Crawford from the Management Agreement; (b) To exercise reasonable skill and care for the client. Crawford failed to timely forward funds owed to Sellers, failed to ascertain whether Sellers, Sellers' bank, or both owned the Property, and/or was engaging Crawford's</p> | <p>2011-004 – Commission vs. Michael Rae Crawford</p>   | <p>September 15, 2011</p> | <p>Hearing held September 15, 2011. License is suspended for a period of two (2) years with the entire two (2) year period stayed and served on probation. The suspension period commenced on October 28, 2011, and continues through October 28, 2013; plus complete an additional fifteen (15) hours of continuing education with three (3) hours in Agency, three (3) hours in Contracts, three (3) hours in License Law, three (3) hours in Landlord-Tenant Act, and three (3) hours in Short Sales, all to be completed by April 25, 2012; plus pay a civil fine of \$1,500.00, court reporter fees and witness fees totaling \$973.81, on or before October 28, 2011.</p> |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT  | DATE OF ORDER           | PENALTY  |
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| <p>services and failing to communicate Buyers' offer to Sellers; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including: (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease; Crawford failed to communicate Buyers' Offer to Sellers. (d) To account in a timely manner for all money and property received; Crawford failed to account in a timely manner for all money received, in that he withheld rent proceeds and threatened to withhold the proceeds of the security deposit unless Sellers released Crawford from the Management Agreement; Crawford violated Neb. Rev. Stat. § 76-2422(2) by failing to enter into a written agency agreement with the Bank; Crawford violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetence, or unworthiness to act as a broker; by violating numerous unfair trade practices as previously identified; Crawford violated Neb. Rev. Stat. § 81-885.24(16); Violating any provision of sections 76-2401 to 76-2430</p> | <p>2011-004 – Commission vs. Michael Rae Crawford</p>                |                         |  |
| <p>Violated Neb. Rev. Stat. § 81-885.21 (1) in that trust funds deposited into his real estate trust accounts were removed from the trust accounts prior to the time the related transactions were closed or otherwise terminated despite the absence of written agreements by the parties having an interest in the funds; Violated Neb. Rev. Stat. § 81-885.24 (3) Garrison failed to account for and remit money coming into his possession belonging to others with respect to his real estate trust accounts when he allowed Realty Linc., Inc.'s bookkeeping system to be manipulated, and he failed to maintain sufficient funds in the trust accounts and was unable to make the trust accounts whole; Violated Neb. Rev. Stat. § 81-885.24 (26) Violating any rule or regulation adopted and promulgated by the Commission. Specifically, 299 NAC 3-002 By failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the law relating to the maintaining of trust accounts when he allowed Realty Linc., Inc.'s bookkeeping system to be</p>  | <p>2011-012 / 2011-020 – Commission vs. Michael Douglas Garrison</p> | <p>October 27, 2011</p> | <p>Stipulation and Consent Order. License is suspended for a period of five (5) years commencing on October 27, 2011, and continuing through October 27, 2016, and, Garrison must pay a civil fine of \$2,500.00 by December 26, 2011.</p> |

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| VIOLATION  | COMPLAINT  | DATE OF ORDER | PENALTY |
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| <p>manipulated, such that his trust account appeared to be balanced at a time when it was not; Violated 299 NAC 5.003.19 Failure by any licensee to supervise persons hired to assist the licensee in his or her licensed real estate activities. Specifically, Garrison failed to supervise and stop a licensed employee from engaging in real estate brokerage activities while such employee's real estate broker's license was on suspension, and by failing to stop his other unlicensed employees from engaging in real estate brokerage activities; Violating Neb. Rev. Stat § 81-885.24 (16) Violating any provision of sections 76-2401 to 76-2430. Specifically, Neb. Rev. Stat. § 76-2422 (6) Garrison failed to comply with the terms of the Realty Linc. Management Agreement with a specific property owner and the terms of the Lease Agreement with a tenant, by failing to collect the security deposit of \$850.00 in its entirety at the time the Lease Agreement was signed by the tenant; Violated Neb. Rev. Stat. § 81-885.24 (29) unfair trade practice for a licensee to demonstrate e negligence, incompetency or unworthiness to act as a broker, and 299 NAC 5-003.14 for failing to deposit any funds received as an earnest money deposit within 72 hours or before the end of the next banking day, after an offer is accepted, in writing, unless otherwise provided for in the purchase agreement. In the event an offer is not accepted, the earnest money deposit shall be returned forthwith: (a) Garrison failed to deposit funds received as an earnest money deposit within 72 hours or before the end of the next banking day; (b) Garrison failed to notify the Commission of the July 2010 levies against Realty Linc.'s trust accounts; (c) Garrison allowed the real estate trust account to become short approximately \$37,559.83, from about July 14, 2010, through October 21, 2010; (d) Garrison allowed Realty Linc., Inc.'s bookkeeping system to be manipulated, such that the real estate trust account appeared to be balanced at a time when it was not; (e) Garrison allowed trust funds to be improperly removed from the trust accounts; (f) Garrison allowed the real estate trust account to be short \$8,082.62, on January 12, 2011, and g) Garrison violated Neb. Rev. Stat § 76-2422 (6), 81-885.24</p> | <p>2011-012 / 2011-020 – Commission vs. Michael Douglas Garrison</p> |               |         |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT   | DATE OF ORDER  | PENALTY  |
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| (16 ) and (26) and 299 NAC 5-003.19.  | 2011-012 / 2011-020 – Commission vs. Michael Douglas Garrison |                |  |
| <p>Violated Neb. Rev. Stat. § 81-885.24 (16) for violating an agency statute, specifically, 76-2418 (1), 76-2421 (1), 76-2422 (4), and 76-2425; Violated Neb. Rev. Stat. § 81-885.24 (26) for violating a rule or regulation of the Commission, specifically, Title 299 Chapter 5 Section 003.25; Violated Neb. Rev. Stat. § 76-2425 for violating any provision of sections 76-2401 to 76-2430; Violated Neb. Rev. Stat. § 76-2418 (1) (b) (c) (e) A licensee representing a buyer as a buyer’s agent shall be a limited agent with the following duties and obligations: (b) To exercise reasonable skill and care for the client; (c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, and (e) To comply with all requirements of sections 76-2401 to 76-2430; Hupp failed to get a pre-occupancy agreement in place during the time period when buyer occupied the property prior to closing from August 2009, to October 9, 2009; Violated Neb. Rev. Stat. § 76-2421 (1) for failing to provide an Agency Disclosure to buyer at the earliest practicable opportunity during or following the first substantial contact with buyer; Violated Neb. Rev. Stat. § 76-2422 (4) for failing to obtain written confirmation of his “dual agency status” from the Seller or POAs prior to or at the time a contract to purchase the property was entered into on August 6, 2009; Violated Title 299 Chapter 5-003.25 for providing buyer with a Seller Property Condition Disclosure Statement which contained omissions in which seller’s POAs failed to provide a response. Hupp was aware of these omissions and failed to attach a written disclosure of the omissions to the Seller Property Condition Disclosure Statement disclosing the omissions to the potential buyer and the seller; Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson; for violating Neb. Rev. Stat. §§ 76-2418 (1) (b) (c) and (e); 76-2421 (1) (a) and (b); 76-2422 (4); 76-2425; 81-885.24 (16) and (26); and Title 299 Chapter 5 Section 003.25.</p> | 2012-002 – Commission vs. Robert L. Hupp                      | March 15, 2012 | <p>Stipulation and Consent Order. License suspended for six (6) months with the first thirty (30) days served on suspension and the remainder five (5) months stayed and served on probation. The suspension period commenced on March 19, 2012, and continued through April 18, 2012. The probation period will commence on April 19, 2012 and will continue through September 19, 2012; Plus complete nine (9) hours of additional continuing education with three (3) hours each in the areas of “Agency”, “Contracts” and “Disclosures”, to be completed by July 13, 2012.</p> |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT   | DATE OF ORDER           | PENALTY   |
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| <p>Violated Title 299 Chapter 5 Section 003.06 Failure to obtain the informed written, signed, and dated consent of all parties involved in a transaction prior to a licensee acting for more than one party in the transaction. A copy of said informed written consent shall be signed, dated, and maintained in the transaction file. If no transaction results then the informed written consent shall be maintained by the licensee's employing broker for five years after the date of the agreement; Violated Neb. Rev. Stat. § 76-2422 (4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01 a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or Tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property; Violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a...salesperson.</p> | <p>2012-029 – Commission vs. Joshua Bryan Bulow</p> | <p>January 17, 2013</p> | <p>Stipulation and Consent Order. License censured; plus a civil fine of \$500.00 to be paid by February 16, 2013; plus complete an additional three (3) hours of continuing education in the area of Agency Law by May 17, 2013.</p> |
| <p>Violated Title 299 Chapter 5 Section 003.23, Failure by the agent of a purchaser to assure that a copy of the Seller Property Disclosure Statement is delivered to the purchaser</p>   | <p>2013-016 – Commission vs. Todd S. Bartusek</p>   | <p>May 16, 2013</p>     | <p>Stipulation and Consent Order entered May 16, 2013. License censured; plus a civil fine of</p>   |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION   | COMPLAINT   | DATE OF ORDER | PENALTY  |
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| <p>on or before the effective date of any contract which binds the purchaser to purchase the residential real property, and to obtain the signed receipt of the purchaser; for failing to deliver a copy of the Seller Property Disclosure Statement to the buyer on or before the date the contract became binding; Violated Neb. Rev. Stat. § 76-2421, At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing; for failing to complete an agency disclosure with the seller on first substantial contact; Violated Neb. Rev. Stat § 76-2422, Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall</p> | <p>2013-016 – Commission vs. Todd S. Bartusek</p> |               | <p>\$1,000.00 to be paid by June 15, 2013; plus complete an additional six (6) hours of continuing education, three (3) hours each in the areas of Agency and Disclosures by September 13, 2013.</p> |

## SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION  | COMPLAINT  | DATE OF ORDER | PENALTY   |
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| confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property; for failing to have seller and buyer sign a Consent To Dual Agency Agreement when dual agency occurred; Violated Neb. Rev. Stat § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a...salesperson; for violating Title 299 Chapter 5 Section 003.23, Neb. Rev. Stat § 76-2421 (1), and Neb. Rev. Stat § 76-2422 (4).  | 2013-016 – Commission vs. Todd S. Bartusek       |               |   |
| Violated Neb. Rev. Stat. § 76-2422(4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase a property or a lease or letter of intent to lease is entered into for the specific property, by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note the refusal of an individual to sign an Agency Disclosure; Neb. Rev. Stat. § 81-885.01(2) Broker means any person who, for any form of compensation or consideration or with the intent or | 2014-013 – Commission vs. Jane Hartman Heimbouch | June 25, 2014 | Stipulation and Consent Order entered June 25, 2014. License revoked. |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION  | COMPLAINT   | DATE OF ORDER | PENALTY |
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| <p>expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, lease, or option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, gives a broker's price opinion or comparative market analysis, or holds himself or herself out as engaged in any of the foregoing. Broker also includes any person: (a) Employed, by or on behalf of the owner or owners of lots or other parcels of real estate, for any form of compensation or consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who auctions, offers, attempts, or agrees to auction real estate; or (c) who buys or offers to buy or sell or otherwise deals in options to buy real estate, by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note the refusal of an individual to sign an Agency Disclosure; Neb. Rev. stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430; by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note the refusal of an individual to sign an Agency Disclosure; Neb. Rev. State § 76-2421(1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall: (a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and (b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing, by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note that an</p> | <p>2014-013 – Commission vs. Jane Hartman Heimbouch</p> |               |         |

SECTION 76-2422 - FAILURE TO ACQUIRE WRITTEN AGREEMENTS FOR BROKERAGE SERVICES

| VIOLATION  | COMPLAINT   | DATE OF ORDER | PENALTY |
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| <p>individual refused to sign an Agency Disclosure; Neb. Rev. State § 81-885.24(3) Failing to account for and remit any money coming into his or her possession belonging to others by failing to timely deposit or remit earnest monies, failed to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(4) Commingling the money or other property of his or her principals with his or her own, by failing to timely deposit or remit earnest monies, also failed to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(24) Failing by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his or her employing broker any deposit money or other money or funds entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act; by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients, to account for money belonging to others with respect to irrigation payments or utility charges, to deliver a written copy of offers and/or purchase agreements and to protect interests of her clients. Heimbouch also failed to truthfully and timely inform her clients of the status of transactions concerning their</p> | <p>2014-013 – Commission vs. Jane Hartman Heimbouch</p> |               |         |

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| VIOLATION   | COMPLAINT   | DATE OF ORDER | PENALTY |
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| <p>properties and to competently complete paperwork; 299 NAC 3-005 Earnest money deposits and other deposits relating to the sale of real estate shall be kept in a separately identified trust account and all other trust funds may be deposited in another separately identified trust account, by failing to timely deposit or remit earnest monies, to keep separate and/or commingling earnest money received from clients, to account for money belonging to others with respect to irrigation payments or utility charges, to deliver a written copy of offers and/or purchase agreements and failed to protect the interests of her clients; 299 NAC 5-003.14 Failure to deposit any funds received as an earnest money deposit within 72 hours or before the end of the next banking day, after an offer is accepted, in writing, unless otherwise provided in the purchase agreement. In the event an offer is not accepted, said earnest money deposit shall be returned forthwith, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; 299 NAC 5-003.15 Withholding earnest money when the purchaser or seller is rightfully entitled to the money; provided, a broker may retain funds to cover expenses he or she has prepaid for a purchaser or seller from the broker's funds, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients, and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller, by failing to deliver a written copy of the offer and/ or purchase agreements; 299 NAC 5-003.18 Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted when the licensee is: the limited seller's agent for the property; the prospective purchaser's limited buyer's agent; or the dual agent of the seller and the prospective purchaser, by failing to deliver a written copy of offers and/or purchase agreements; Neb. Rev. Stat. § 81-885.24(22) Making any</p> | <p>2014-013 – Commission vs. Jane Hartman Heimbouch</p> |               |         |

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| VIOLATION  | COMPLAINT   | DATE OF ORDER   | PENALTY   |
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| substantial misrepresentations, by advising clients of offers without the necessary documents and also disclosing personal information about possible clients.   | 2014-013 – Commission vs. Jane Hartman Heimbouch  |                 |   |
| Violated Neb. Rev. Stat. § 76-2421(3) Licensee offering brokerage services; (3) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee working as an agent or subagent of the seller or landlord with a buyer or tenant who is not represented by a licensee shall provide a written disclosure to the customer which contains the following: (a) A statement that the licensee is an agent for the seller or landlord and is not an agent for the customer; and (b) A list of the tasks that the agent acting as a seller's or landlord's agent or subagent may perform with the customer; by not obtaining a signed Agency Disclosure "following the first substantial contact with" nine of the twelve owners of seller's farmland July 30, 2013; violated Neb. Rev. Stat. § 76-2422 Written agreements for brokerage services; when required (1) All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker. A copy of a written agreement for brokerage services shall be left with the client or clients. (2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker, except that if a licensee is a limited seller's agent for a builder, the terms of compensation may be established for a specific new construction property on or before the builder's acceptance of a contract to sell; violated Neb. Rev. Stat. § | 2014-015 – Commission vs. Thomas Eugene Sunderman | August 21, 2014 | Stipulation and Consent Order entered August 21, 2014. License suspended for two (2) years all stayed and served on probation; plus pay a civil fine of \$1,500.00 by September 20, 2014; plus complete six (6) hours of additional continuing education, three (3) hours each in the areas of agency and contracts by February 17, 2015. |

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| VIOLATION   | COMPLAINT  | DATE OF ORDER           | PENALTY   |
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| <p>81-885.24(12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent; by marketing real property for sale between March 20, 2013 and July 30, 2013, and writing Buyer's Offer to Purchase property on July 30, 2013, without having a signed Listing Agreement with all owners of the property; violated Neb. Rev. Stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson by violating Neb. Rev. Stat. § 76-2121(3), 76-2422, 81-885.24(12) and 81-885.24(16).</p>  | <p>2014-015 – Commission vs. Thomas Eugene Sunderman</p>   |                         |   |
| <p>Violated Neb. Rev. Stat. § 76-2422(6) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. Any agreement under this subsection shall be subject to the common-law requirements of agency applicable to real estate licensees Pocras's monthly management fee was changed in about October of 2012, without having a written agreement for this change in compensation; violating Neb. Rev. Stat. § 81-885.24(16) which provides that it is an unfair trade practice to violate any provisions of the agency statutes 76-2401 to 76-2430.</p> | <p>2014-006 – Louis E. Halperin vs. Kathryn Pocras</p>     | <p>January 28, 2015</p> | <p>Stipulation and Consent Order entered January 28, 2015. License suspended for six (6) months all stayed and served on probation; plus pay a civil fine of \$1,250.00 by February 27, 2015.</p> |
| <p>Violated Neb. Rev. Stat. § 81-885.24(2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted when Rothlisberger posted a blind online advertisement for a</p>   | <p>2015-004 – Jeri Schlickbernd vs. Jeff Rothlisberger</p> | <p>January 21, 2016</p> | <p>Hearing held January 21, 2016. License suspended for twenty four (24) months with the entire period stayed and served on probation. Probation commenced on March 2,</p>                        |

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| VIOLATION  | COMPLAINT  | DATE OF ORDER | PENALTY   |
|--|--|---------------|---|
| <p>property when he did not have a listing agreement with the owner of the property; violated Neb. Rev. Stat. § 81-885.24(12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent, by posting an online advertisement for a property he did not have a listing agreement for; violated Neb. Rev. Stat. § 76-2422(2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented; violated Neb. Rev. Stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, by his actions detailed above.</p> | <p>2015-004 – Jeri Schlickbernd vs. Jeff Rothlisberger</p> |               | <p>2016 and continues through March 2, 2018; plus pay a civil fine of \$1,500.00 due March 2, 2016, plus pay hearing cost in the amount of \$160.00 by March 2, 2016; plus complete an additional six (6) hours of continuing education with three (3) hours each in the areas of Agency and License Law by July 1, 2016.</p> |