

CHAPTER 2-003 - ALLOWING ADVERTISING NOT IN NAME OF BROKER

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<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.</p> <p><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 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</p>	<p>2001-046 - Commission vs. Kenneth Lloyd Kirkeby & 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.</p> <p><u>Dreyer</u>: Stipulation and Consent Order. License suspended for sixty (60) days from February 4, 2002, through April 4, 2002; plus an 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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contract entered into on or after January 1, 1995, which binds the purchaser to purchase the residential real estate property; 76-2421(1)(a)&(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 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.

2001-046 - Commission vs.
Kenneth Lloyd Kirkeby & Melvin R.
Dreyer

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Section 81-885.24(2) by intentionally using advertising which is misleading or inaccurate in any material particular when Respondent sends correspondence regarding a listing to a client or customer on his own company letterhead rather than on letterhead under the direct supervision of the broker and not in the name the broker is conducting business as recorded with the Commission; 81-885.24(3) by failing to account for and remit any money or funds coming into his or her possession belonging to others; 81-885.24(24) by failing to place as soon after receipt as practicable, in the custody of his broker, any funds entrusted to him by any person dealing with him as the representative of his licensed broker; 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, to wit: Title 299, Ch. 2-003 by failing to advertise in the name his designated broker is conducting business as recorded with the Commission; and Ch. 3-003 by failing to account for money advanced by a buyer or seller for the payment of expenses in connection with the closing of a real estate transaction and advancing money by his principal for expenditures on behalf of said principal; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a salesperson; and 76-2419(2) by failing to exercise reasonable skill and care on behalf of a client and to promote the interest of the client with the utmost good faith, loyalty and fidelity as identified in 76-2417 and 76-2418.

2003-017 - Commission vs. Vincent Muniz, Sr.

September 24, 2003

Stipulation & Consent Order. License suspended for 5 years, from October 1, 2003, through September 30, 2008.

Section Title 299 Chapter 2 Section 003 Advertising shall 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. All advertising shall be under the direct supervision of the broker, and in the name the broker is conducting business as recorded with the Commission. Advertising which is contrary to Sections 003 to 006 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act; Neb. Rev. Stat. § 81-885.24 (2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any

2008-040 Commission vs. Dorothy Mae Haws

January 22, 2009

Stipulation and Consent Order. License suspended for a period of thirty (30) days, with the entire suspension period stayed and served on probation, which commenced on January 28, 2009, and continuing through February 26, 2009; plus an additional nine (9) hours of continuing education to include three (3) hours in the area of license law, three (3) hours in the area of disclosures and three (3) hours in the area of ethics must be completed by July 21, 2009.

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way misrepresents any property, terms, values, policies, or services of the business conducted; and Title 299 Chapter 5-003.20 Failure to disclose, in writing, to a buyer, at or prior to the time the buyer signs an Offer to Purchase, an adverse material fact regarding the condition of a parcel of real estate of which a broker or salesperson has knowledge. Said written disclosure shall be signed and dated by the buyer, and a copy of the signed and dated disclosure shall be maintained in the transaction file on that parcel of real estate in accordance with 299 NAC 3-001. An adverse material fact is one which significantly affects the desirability or value of the property, and which is not reasonably ascertainable or known to the buyer. Haws prepared and distributed a flyer on the subject property that included only a phone number and not the name of her designated broker's real estate company; failed to disclose, in writing, to a buyer, at or prior to the time the buyer signs an Offer to Purchase, an adverse material fact regarding the condition of a parcel of real estate of which a broker or salesperson has knowledge; and failed to disclose the code violations, in writing, to the buyer, at or prior to signing an Offer to Purchase.

2008-040 Commission vs. Dorothy Mae Haws

Violated Title 299 Chapter 2 Section 003 Advertising shall 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. All advertising shall be under the direct supervision of the broker, and in the name the broker is conducting business as recorded with the Commission. Advertising which is contrary to Sections 003 to 006 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act; 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; Neb. Rev. Stat. § 81-885.24 (26) Violating any rule or regulation adopted and promulgated by the Commission; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or

2012-024 – Commission vs. Michael Nathan Helmuth November 15, 2012

Stipulation and Consent Order. License censured; plus pay a civil fine of \$1,000.00, by December 14, 2012.

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unworthiness to act as a broker, associate broker, or salesperson. Helmuth conducted real estate business in Nebraska from April 16, 2011 through September 11, 2012, under an inactive Limited Liability Company, and he improperly advertised Nebraska real estate for sale under the name of the inactive Limited Liability Company which constitutes misleading or inaccurate advertising.

2012-024 – Commission vs. Michael
Nathan Helmuth