

CHAPTER 5-003.24 - FAILURE TO DELIVER DISCLOSURE STATEMENT TO PURCHASER

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>Section 81-885.24(22) by making a substantial misrepresentation; 81-885.24(26) by violating a rule or regulation adopted by the Commission, to wit: Ch. 5-003.13 by accepting other than cash or cashable check as earnest money; Ch. 5-003.10 by failing to give Sellers closing costs & failing to prepare an estimate or have one signed; Ch. 5-003.11 by failing to give purchaser closing costs & failing to prepare an estimate or have one signed; Ch. 5-003.14 by failing to deposit earnest money in 48 hours; Ch. 3-006 by failing to deposit earnest money in her trust account in 48 hours & failing to transfer it to the listing broker; Ch. 5-003.24 by failing to give a copy of disclosure statement to the purchaser or get it signed; Ch. 5-003.23 by failing give disclosure statement to the purchaser or their agent; 81-885.24(5) by failing to maintain and deposit all money received by a broker; and 81-885.24(29) by demonstrating unworthiness to act as a Broker.</p>	<p>96-046, 97-010 - Commission vs. Jillian Ann Currie</p>	<p>March 20, 1997</p>	<p>Stipulation and Consent Order. License suspended 45 days, plus 6 hours additional continuing education, 3 hours in trust accounts and 3 hours in written disclosures.</p>
<p>Section 81-885.24(26) by violating a rule or regulation, to wit: Ch. 5-003.14 by failing to deposit earnest money in 48 hours, Ch. 3-006 by failing to transfer money to listing broker, Ch. 5-003.04 by failing to give seller an estimate of closing costs or have it signed, Ch. 5-003.10 by failing to give seller an estimate of closing costs or have it signed, Ch. 5-003.11 by failing to give buyer an estimate of closing costs or have it signed, Ch. 5-003.07 by failing to comply with 76-2401 through 76-2430 in the following: 76-2420 by failing to adopt a written agency policy; 76-2421 by failing to properly complete or retain an agency pamphlet, Ch. 5-003.23 or Ch. 5-003.24 by failing to deliver a copy of the disclosure statement to the purchaser & get a signed receipt, Ch. 3-002 by failing to maintain a bookkeeping system; 81-885.21 by failure to notify Commission of a trust account; 81-885.24(3) by failing to account for other's money; 81-885.24(5) by failing to deposit all money; 81-885.24(22) by making substantial misrepresentation; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Broker.</p>	<p>97-003 - Commission vs. Cameron Houston Thomas</p>	<p>April 1, 1997</p>	<p>Stipulation and Consent Order. License suspended one year; plus an additional 9 hours continuing education, 3 hours in trust accounts, 3 hours in disclosures, and 3 hours in license law.</p>

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<p>Section 81-885.24(26) by violating a rule or regulation adopted and promulgated by the Commission in the interest of the public inconsistent with the Nebraska Real Estate License Act, to wit: Title 299, NAC, Ch. 3-002 by failing to maintain a bookkeeping system which accurately and clearly discloses full compliance with the laws relating to the maintenance of trust accounts; Ch. 5-003.10 by failing to identify in writing to the seller, at the time the offer is presented and accepted, those closing costs the seller will be expected to pay at closing, and by failing to obtain seller's signature; Ch. 5-003.11 by failing to identify in writing at the time an offer is written or a counter-offer accepted, those closing costs the buyer will be expected to pay at closing, and by failing to obtain the buyer's signature; Ch. 5-003.24 by failing to obtain the signed receipt of the buyer on the Seller Property Condition Disclosure Statement prior to the buyer entering into a Purchase Agreement; 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Broker.</p>	97-002 - Commission vs. Janice Eve Sauer	June 18, 1997	<p>Stipulation and Consent Order. License suspended 18 month, to be served on probation. As a condition of probation, Respondent must not violate the License Act or laws governing agency, and the Respondent must, complete 6 hours of continuing education within 6 months, 3 hours in disclosures and 3 hours in trust accounts.</p>
<p>Section 81-885.24(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 failure 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 & buyer or landlord & tenant permitting the designated broker to serve as a dual agent, Ch. 5-003.10 by failing to give seller closing costs & failing to prepare a written estimate or have one signed, Ch. 5-003.11 by failing to give purchaser closing costs & failing to prepare a written estimate or have one 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 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, 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a Broker.</p>	97-036 - Commission vs. Glenda Harders	August 19, 1997	<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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<p>Section 81-855.24(19) by failing to include a fixed date of expiration in any written listing agreement; 81-855.24(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 is presented and accepted, those categories of costs the seller will be expected to pay at closing, failing to prepare a written estimate of the costs the seller will be expected to pay at closing, and failing to obtain the signature of the seller on said written document; Ch. 5-003.11 by failing to identify to the prospective purchaser, in writing, at the time the offer is written 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 by failing to obtain the signature of the purchaser on said document; Ch. 5-003.14 by failing to deposit any funds received as an earnest money deposit within 48 hours or before after an offer was accepted; Ch. 5-003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement was delivered to the purchaser or to the agent of the purchaser, on or before the effective date of any contract entered into which binds the purchaser to purchase the residential real property; Ch. 5-003.24 by failing, as the agent of the purchaser, 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. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2401 through 76-2430, particularly 76-2417 by acting as an agent for the seller without benefit of a written contract, 76-2420 by failing to adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or</p>	<p>98-012 - Commission vs. Mark F. Abboud</p>	<p>May 29, 1998</p>	<p>Stipulation and Consent Order. License suspended for 2 years, with said suspension stayed and served on probation from May 29, 1998 through May 29, 2000, with an additional 12 hours of continuing education to include 3 hours in trust accounts, 3 hours on agency, 3 hours in license law, and 3 hours in disclosures to be completed by March 1, 1999.</p>

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tenant as part of any real estate brokerage activities, 76-2421 by failing to provide a written copy of the current brokerage disclosure pamphlet to a seller, landlord, entered into a written agreement for brokerage services with a designated broker at the earliest practicable opportunity during or following the first substantial contact, and 76-2422(04) by acting as a dual agent without obtaining the written agreement of the seller and the buyer; Ch. 3-006 by failing, in the case of cooperative sales between brokers, to deposit earnest money payment in the Respondent's real estate trust account within 48 hours or before the end of the next banking day after an offer is accepted, in writing, and then forthwith transferring such earnest money deposit to the listing broker; and 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as the broker.	98-012 - Commission vs. Mark F. Abboud		
Section 81-855.24(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 will 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 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 prepared by the purchaser or a counteroffer is accepted by the purchaser,	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 from May 19, 1998 to May 19, 2000, with an additional 12 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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<p>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; 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 a 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.</p>	98-015 - Commission vs. Fred L. Swett		
<p>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 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</p>	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>agreement; Ch. 5-003.24 and 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. 5-003.08 by failing to comply with 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 wit 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>	1999-035 - Commission vs. Charles E. Degaillez		
<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 a 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 to the Buyers who Respondent is representing; 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. 5-003.24 by failing, as an agent of the Buyers, to assure that a copy of the Seller Property Condition Disclosure Statement was delivered to the Buyers on or before the effective date of any contract entered into which binds the Buyers to purchase residential real property and to obtain the signed receipt of the Buyers; 81-885.24(29) by demonstrating negligence to act as a salesperson.</p>	2000-024 - Commission vs. Louis P. Beau	December 4, 2000	License suspended for thirty (30) days from December 4, 2000, through January 2, 2001, with entire period stayed and served on probation; 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 disclosure, to be completed by June 3, 2001.
<p>Section 81-885.21(2) by failing to notify the Commission of a trust account and provide the name of the account on forms provided by the Commission; 81-885.24(26) by violating any</p>	2004-005 - Commission vs. Buree Stovall, Broker	December 7, 2004	Hearing held November 18, 2004. License revoked.

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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, Ch. 3-001 by failing to preserve for five years, following its consummation, records relating to any real estate transaction; 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, this includes failing to maintain sufficient broker equity to write checks unrelated to a real estate transaction; 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 costs 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; Ch. 5-003.11 by failing to identify 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 and prepare a written estimate of the costs the purchaser will be expected to pay at closing; Ch. 5-003.14 which regulation became effective 9/3/2002 and was in effect through the remainder of the examination period, by failing to deposit any funds received as earnest money 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; Ch. 5-003.14, which regulation was in effect at all time relevant to this claim through 9/2/2002, by failing to deposit any funds received as earnest money with 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 by failing to assure a copy of the Seller Property Condition Disclosure Statement was delivered to the purchaser on or before the effective date of any contract which binds the purchaser to purchase the residential real estate, and to obtain the signed receipt of the purchaser; 76-2421(1) by failing, at the earliest practicable opportunity during or following the first substantial contact with a seller, landlord,	2004-005 - Commission vs. Buree Stovall, Broker		

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<p>buyer, or tenant who has not entered into a written agreement for brokerage services with the designated broker, to provide that person with a written copy of the current brokerage disclosure pamphlet prepared and approved by the Commission, and to disclose in writing to that person the types of brokerage relationships the designated broker is offering to the person or disclosing in writing to that person which party the licensee is representing; 76-2422(4) by acting as a dual agent without first obtaining the written agreement of the seller and buyer or landlord and 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 and by failing to have a fixed date of expiration in a brokerage agreement; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker.</p>	2004-005 - Commission vs. Buree Stovall, Broker		
<p><u>Larry Melichar:</u> Dismissed. <u>Kenneth Muckey:</u> Section Title 299, Chapter 5-003.11, Failure of the licensee to identify in writing to the prospective purchaser-client, or to a purchaser-customer if offered pursuant to Neb. Rev. Stat. 76-2421 (3) (b), 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. At the same time, the licensee shall prepare a written estimate of the costs the purchaser will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed and dated by the purchaser. A copy of the signed and dated document shall be given to the purchaser and, when a transaction results, one copy shall be maintained in the transaction file in accordance with 299 NAC 3-001. This subsection shall not apply to the sale of land or a lot or lots to an entity or individual representing itself, himself or herself as a builder or developer; agricultural property; commercial property, including residential property with five or more dwelling units; or to third-party relocation companies acting as purchasers. For the purposes of this subsection, the term "agricultural property" shall mean property zoned agricultural</p>	2007-061 - Christin Pruess & R.E.L.M. Investors, LLC vs. Kenneth Alan Muckey and Larry Dean Melichar	September 26, 2008	<p><u>Larry Melichar:</u> Dismissed. <u>Kenneth Muckey:</u> Stipulation and Consent Order. License suspended for sixty (60) days followed by one (1) year probation. The suspension period will commence on October 29, 2008, and will continue through December 28, 2008. The probationary period will commence on December 29, 2008, and will continue through December 28, 2009; plus an additional six (6) hours of continuing education with three (3) hours in the area of contracts and three (3) hours in the area of ethics to be completed by March 25, 2009.</p>

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by a county in which any part of the property is located, or, if a county does not zone land agricultural, then property any part of which is assessed as agricultural property by a county assessor; Title 299, Chapter 5-003.24, Failure by the agent of a purchaser to assure that a copy of the Seller Property Disclosure Statement is delivered to the purchaser 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; Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson. Respondent Muckey failed to have Complainant date and sign "estimated" closing cost statements for \$18,500.00 and \$20,000.00; failed to obtain the signed receipt of Complainant on the Seller Property Condition Disclosure Statement; signed Complainant's name to the "estimated" closing cost statements for \$18,500.00 and \$20,000.00, and signed Complainant's name to the Seller Property Condition Disclosure Statement.	2007-061 - Christin Pruess & R.E.L.M. Investors, LLC vs. Kenneth Alan Muckey and Larry Dean Melichar		

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