

CHAPTER 5-003.25 - FAILURE TO DISCLOSE AN ERROR ON DISCLOSURE STATEMENT

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 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(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>	<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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Ch. 5-003.25 by being aware of an error, inaccuracy or omission in a Seller Property Condition Disclosure Statement and failing to disclose the error, inaccuracy or omission, in writing, to a potential purchaser and the seller.	97-032 - Nikki Sheppard vs. Steve Amos	October 31, 1997	License Censured.
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, to wit: Title 299, N.A.C. Ch. 5-003.25 by failing to disclose an omission on the Seller Property Condition Disclosure Statement, in writing to a potential purchaser and the seller; 81-885.24(29) by demonstrating negligence to act as a broker.	1999-015 - Teresa D. Reed vs. Marlene Ann Whitaker & D. Doreen Gulizia	August 13, 1999	<u>Gulizia</u> : Dismissed. <u>Whitaker</u> : Stipulation and Consent Order. License censured; plus three (3) hours of continuing education in the area of disclosure.
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, to wit: Title 299, Ch. 5-003.25 by failing to disclose an omission on the Seller Property Condition Disclosure Statement, in writing, to a potential purchaser and the seller; 81-885.24(29) by demonstrating negligence to act as a salesperson.	1999-022 - Commission vs. Robert Dean Rowan	September 20, 1999	Stipulation and Consent Order. License censured; plus three (3) hours of continuing education in the area of disclosure.
Title 299, Ch. 5-003.20, for failing 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 has knowledge; Ch. 5-003.25, for failure by a licensee, who knows of an error, inaccuracy or omission in a Seller Property Condition Disclosure Statement completed pursuant to 76-2, 120, to disclose the error, inaccuracy or omission, in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement; 81-885.24(29) by demonstrating negligence to act as a broker.	2002-033 - Earl & LeeAnn Stueve vs. Carolyn Van Horne	January 29, 2004	Stipulation & Consent Order. License censured; plus an additional 6 hours of continuing education, including 3 hours in the area of license law and 3 hours in the area of disclosure, to be completed by May 29, 2003.
Section 76-2417(3)(a) by failing, as a seller's agent, to disclose in writing to the buyer all adverse material facts actually known by the licensee; Title 299, N.A.C., Ch. 5-003.20 by failing to disclose, in writing, to a buyer, at or	2003-051 - Anthony W. & Barbara J. Bartram vs. Curtis Alan Spilker	March 3, 2004	Stipulation & Consent Order. License suspended for one hundred fifty (150) days, with the first sixty (60) days served on suspension and the remainder of the

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<p>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; Ch. 5-003.25, failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to 76-2, 120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement; 81-885.24(29) by demonstrating negligence, incompetency, or unworthiness to act as a broker.</p>	<p>2003-051 - Anthony W. & Barbara J. Bartram vs. Curtis Alan Spilker</p>		<p>period stayed and served on probation, from March 5, 2004, through August 1, 2004; plus an additional nine (9) hours of continuing education, including three (3) hours in the area of disclosures, three (3) hours in the area of ethics, and three (3) hours in the area of license law, to be completed by August 1, 2004.</p>
<p>Section Title 299 Chapter 5-003.25 Failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. Section 76-2,120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence to act as a salesperson. Brown failed to disclose to the potential purchaser and the seller, in writing, an error or inaccuracy in a Seller Property Condition Disclosure Statement of which he had knowledge.</p>	<p>2006-028 - Tammy Chaudoin vs. Gunner E. Brown</p>	<p>November 2, 2006</p>	<p>Stipulation and Consent Order. License suspended for a period of fifteen (15) days, commencing on November 28, 2006 and continuing through December 13, 2006; 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 ethics to be completed by January 31, 2007.</p>
<p>Violated terms of a previous Stipulation and Consent Order dated November 2, 2006, pertaining to Complaint 2006-028.</p>	<p>SC 2007-002 Commission vs. Gunnar E. Brown</p>	<p>Show Cause Hearing March 29, 2007</p>	<p>License suspended for a period thirty (30) days to commence on April 2, 2007, and continue through May 1, 2007, followed by a probation period of six (6) months commencing on May 2, 2007, and continuing through November 1, 2007; 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 ethics. Courses must be taken in an in-class format and be completed by September 29, 2007.</p>

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<p>Scheopner violated Title 299 Chapter 5 Section 003.23 Failure by the agent of the seller to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or to the agent of the purchaser on or before the effective date of any contract which binds the purchaser to purchase the residential real property. Scheopner failed to assure that a copy of the Seller Property Condition Disclosure Statement was delivered to the purchasers on or before the effective date of any contract which bound the purchasers to purchase the property. Scheopner violated Title 299 Chapter 5 Section 003.25 Failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. Section 76-2,120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement. Scheopner failed to disclose, in writing, to the purchasers and the sellers, an omission by the sellers on the Seller Property Condition Disclosure Statement and Scheopner failed to attach such disclosure to the Disclosure Statement. Scheopner 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. Scheopner failed to have a seller having a joint-ownership interest in the property sign the Listing Agreement. Scheopner 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. Scheopner violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, by failing to have a seller having a joint ownership interest in the property sign the Agency Disclosure; failed to have both sellers sign the Agency Disclosure; failing to identify on the Agency Disclosure that he was the licensee making the agency disclosure; failing to insure that the sellers completed</p>	<p>2009-041 Commission vs. Bruce William Scheopner</p>	<p>November 20, 2009</p>	<p>Stipulation and Consent Order. License suspended for a period of one (1) year, with the first fifteen (15) days of the suspension period served on suspension and the remainder of the one (1) year period stayed and served on probation will commence on a mutually acceptable date within 30 days from the date of receipt of the Order; plus an additional nine (9) hours of continuing education to include three (3) hours in the area of license law, (3) hours in the area of agency and three (3) hours in the area of ethics must be completed by May 19, 2010; and a civil fine of \$1000.00 must be received on or before December 19, 2009.</p>

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<p>the Seller Property Condition Disclosure in its entirety; failing to disclose, in writing, an omission on the Seller Property Condition Statement to the purchaser and the seller, and failing to have all parties having an ownership interest in the property sign the Listing Agreement.</p>	<p>2009-041 Commission vs. Bruce William Scheopner</p>		
<p><u>Diane Lee Powers:</u> Violated Title 299 Chapter 5 Section 003.25 Failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. § 76-2,120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser and the seller and attaching the written disclosure to the Seller Property Condition Disclosure Statement; Neb. Rev. Stat. § 81-885.24(22) Making any substantial misrepresentations; for representing in the Seller Property Condition Disclosure Statement that there had been no prior hail damage to the roof, and that there had been no insurance claims filed against the roof; and Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson; for violating Title 299 Chapter 5 Section 003.25 and Neb. Rev. Stat. § 81-885.24 (22).</p>	<p>2010-006 – James E. Sanford vs. Diane Lee Powers and Michael Stuart Powers</p>	<p>February 17, 2011</p>	<p><u>Diane Lee Powers:</u> Stipulation and Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of “Disclosures” to be completed by June 17, 2011; plus pay a civil fine of \$500.00, on or before March 18, 2011. <u>Michael Stuart Powers:</u> Stipulation and Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of “Disclosures” to be completed by June 17, 2011; plus pay a civil fine of \$500.00, on or before March 18, 2011.</p>
<p><u>Michael Stuart Powers:</u> Violated Title 299 Chapter 5 Section 003.25 Failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. § 76-2,120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser and the seller and attaching the written disclosure to the Seller Property Condition Disclosure Statement; Neb. Rev. Stat. § 81-885.24(22) Making any substantial misrepresentations; for representing in the Seller Property Condition Disclosure Statement that there had been no prior hail damage to the roof, and that there had been no insurance claims filed against the roof; and Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson; for violating Title 299 Chapter 5 Section 003.25 and Neb. Rev. Stat. § 81-885.24 (22).</p>			

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<p>Violated Title 299, Chapter 5, 003.23 for failing to deliver a copy of the Seller Property Condition Disclosure Statement to the purchaser on or before the effective date of the contract which binds the purchaser to purchase the property; Connell violated Title 299, Chapter 5, 003.25 for failing to disclose any errors, inaccuracies or omissions in the Seller Property Condition Disclosure Statement, in writing to the purchaser and seller and failing to attach the written disclosure to the Seller Property Condition Disclosure Statement; Connell violated Neb. Rev. Stat. § 76-2421 (1) for failing to complete an Agency Disclosure with the seller and buyer at the earliest opportunity during or following the first substantial contact; for failing to mark customer or client on the disclosure with the buyer; and for failing to have the buyer identify the date buyer signed the Agency disclosure; Connell violated Neb. Rev. Stat. § 81-885.16 Violating any provision of sections 76-2401 to 76-2430 for violating Neb. Rev. Stat. § 76-2421; Connell violated Neb. Rev. Stat. § 81-885.24 (26) Violating any rule or regulation adopted by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act, for violating Title 299, Chapter 5, Sections 003.23 and 003.25; Connell violated Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a salesperson; for: 1) failing to deliver a copy of the Seller Property Condition Disclosure Statement to the purchaser on or before the effective date of the contract which binds the purchaser to purchase the property; 2) failing to review the Seller Property Condition Disclosure Statement for errors, inaccuracies, or omissions; 3) failing to disclose omissions by the seller in the Seller Property Condition Disclosure Statement, in writing, to both the purchaser and the seller, and failing to attach the disclosure to the Seller Property Condition Disclosure Statement ; 4) failing to complete an Agency Disclosure with the seller and buyer at the earliest opportunity during or following the first substantial contact, and, failing to mark customer or client on the Agency Disclosure with the buyer; and failing to have the buyer identify the date buyer signed the Agency Disclosure; 5) violating any provision of sections 76-2401 to 76-2430,</p>	<p>2011-024 – Commission vs. Bruce Delmar Connell</p>	<p>October 27, 2011</p>	<p>Stipulation and Consent Order. License suspended for six (6) months, with the entire six (6) month period stayed and served on probation. The suspension/probation period commenced on October 27, 2011 and continues through April 27, 2012. Connell must pay a civil fine of \$750.00 by December 26, 2011; plus complete an additional six (6) hours of continuing education by February 24, 2012, with three (3) hours each in the area of Agency and License Law, and submit documentary proof to the Commission that said courses have been satisfactorily completed.</p>

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<p>specifically 76-2421; 6) violating any rule or regulation of the commission, specifically Title 299, Chapter 5, Sections 003.23 and 003.25; 7) having the buyer sign the receipt for a fully-accepted copy of the offer before the seller signed and accepted the offer; 8) failing to receipt in the Offer to Purchase for the buyer's earnest money deposit of \$800.00; 9) improperly entering a date of April 5, 2010, on the buyer's Agency Disclosure which the Buyer signed on March 27, 2010; 10) failing to review the final closing statement which contained material errors including; a) the sale price of \$25,000.00, instead of the reduced price of \$24,536.12; b) an expense to the seller of \$463.88, for the water pipe repairs which expense was actually paid for by the buyer; and c) failing to reflect that \$1,500.00, of seller proceeds was to be escrowed at closing for clean-up of the Property.</p>	<p>2011-024 – Commission vs. Bruce Delmar Connell</p>		
<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</p>	<p>2012-002 – Commission vs. Robert L. Hupp</p>	<p>March 15, 2012</p>	<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>

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<p>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>	<p>2012-002 – Commission vs. Robert L. Hupp</p>		
<p>Violated Neb. Rev. Stat. § 81-885.24(22) unfair trade practice for a real estate licensee to make "any substantial misrepresentations" when he misrepresented to the Buyers in December of 2012 that he had no records or reports pertaining to lead-based paint and/or lead-based paint hazards in the housing and that he did not know whether any tests had been conducted for the presence of lead-based paint on the Property, when he had authorized the EPA to access the Property to perform a lead-based paint assessment thereon on January 26, 2011 and he signed documents from the EPA's contractor on December 6, 2011, which informed Briley that the lead-based paint assessment on the Property had been completed.; violated 299 NAC 5.003.25 failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. Section 76-2,120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser in that he provided Buyers with a Seller Property Condition Disclosure Statement, which contained a misrepresentation, by checking the "do not Know" box in response to Section B, Question 4, which asks whether lead-based paint had been on the Property and whether any tests had been conducted for the presence of lead-based paint on the Property; violated Neb. Rev. Stat. § 81-885.24(26) unfair trade practice for a real estate licensee to violate any rule or regulation adopted and promulgated by the commission in the interest of the</p>	<p>2014-003 – Daniel and Susana Torres vs. Adam Briley</p>	<p>November 25, 2014</p>	<p>Hearing held November 25, 2014. License suspended for three (3) years, with the entire period stayed and served on probation; plus pay a civil fine of \$1,500.00 by December 25, 2014; plus complete an additional three (3) hours of continuing education in the area of disclosures to be completed by May 25, 2015.</p>

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public and consistent with the Nebraska Real Estate License Act by violating 299 NAC 5.003.25; violated Neb. Rev. Stat. § 81-885.24(29) unfair trade practice for a real estate licensee to demonstrate negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson by misrepresenting to the Buyers in December of 2012 that he had no records or reports pertaining to lead-based paint and/or lead-based paint hazards in the housing and that he did not know whether any tests had been conducted for the presence of lead-based paint on the Property, when he had authorized the EPA to access the Property to perform a lead-based paint assessment thereon on January 26, 2011 and he had signed documents from the EPA's contractor on December 6, 2011, which informed Briley that the lead-based paint assessment on the Property had been completed.	2014-003 – Daniel and Susana Torres vs. Adam Briley		
