

CHAPTER 3-007 - IMPROPER RELEASE OF TRUST FUNDS

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>Section 81-885.21(1), 81-885.24(5) and Ch. 3-007 by failing to maintain and deposit in a separate non-interest-bearing checking account all money received by a Broker acting in such capacity or as escrow agent or the temporary custodian of the funds of others in a real estate transaction unless all parties having an interest in the funds have agreed otherwise in writing and by demonstrating incompetency and unworthiness to act as a real estate Broker in violation of 81-885.24(29) by failing to disclose to the purchaser that all licensees involved in the transactions are agents of and representing the seller.</p>	<p>92-048 - Commission vs. Patrick George Payne</p>	<p>November 12, 1992</p>	<p>Stipulation and Consent Order. 6 months probation; plus 9 hours additional continuing education.</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 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</p>	<p>2006-039 - Commission vs. Ronald A. Henn</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>

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<p>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 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</p>	<p>2006-039 - Commission vs. Ronald A. Henn</p>		

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<p>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 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>Violated Neb. Rev. Stat. § Title 299 Chapter 3 Section 007.02 In the absence of a pending civil action and upon the</p>	<p>2012-006 – Charles Jerrell vs. Philip J. Rosfeld</p>	<p>June 28, 2012</p>	<p>Stipulation and Consent Order. License censured; Plus a civil fine of \$500.00 to be</p>

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passage of one year's time from the date of an accepted offer to purchase, it shall not be considered grounds for disciplinary action for a broker to pay out an earnest money deposit to a seller when the payment of such earnest money deposit has been based on a good faith decision that the buyer has abandoned any claim to such earnest money deposit; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson. Rosfeld disbursed the earnest money deposit to the seller without having first secured the written release of all parties to the contract.	2012-006 – Charles Jerrell vs. Philip J. Rosfeld		paid by July 28, 2012; plus complete three (3) hours of additional continuing education in the area of "License Law" by September 26, 2012.
