

CHAPTER 5-003.23 - FAILURE TO DELIVER DISCLOSURE STATEMENT TO PURCHASER/AGENT

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>Ch. 5-003.23 by failing to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser, or to the agent of the purchaser; Ch.5-003.11 and 5-003.10 by failing to provide the purchaser a written estimate of the costs the purchaser will be expected to pay at closing when the necessary cost information was reasonably available, by failing to obtain a buyer or seller signature, and further, by failing to maintain evidence of such records in her transaction file in accordance with NAC 3-001; 81-885.24(29) by demonstrating negligence to act as a Broker.</p>	<p>95-048 - Patrick and Rebecca Burns vs. Alvina Becker, 96-005 - Commission vs. Alvina Marie Becker.</p>	<p>April 30, 1996</p>	<p>Stipulation and Consent Order. License suspended for two-years, with said suspension being served on probation from April 30, 1996 through April 29, 1998; plus two additional sets of 12 hours of continuing education to be completed by October 30, 1996 and April 29, 1998.</p>
<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</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>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 (continued)</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>
<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</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</p>

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<p>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 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</p>	<p>98-012 - Commission vs. Mark F. Abboud (continued)</p>		<p>hours in license law, and 3 hours in disclosures to be completed by March 1, 1999.</p>

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<p>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.</p>	<p>98-012 - Commission vs. Mark F. Abboud (continued)</p>		
<p>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, 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</p>	<p>98-015 - Commission vs. Fred L. Swett</p>	<p>May 19, 1998</p>	<p>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.</p>

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<p>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>	<p>98-015 - Commission vs. Fred L. Swett (continued)</p>		
<p><u>G. Barnard</u>: Section 76-2421 by failing, at the earliest practical opportunity during or following the first substantial contact with sellers who have not entered into a written agreement for brokerage services with the designated broker, to disclose in writing to those persons the types of brokerage relationships that the designated broker and affiliated licensees are offering to the persons or disclose in writing to the persons which party the licensee 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, NAC, Ch. 5-003.10 by failing to identify in writing at the time the offers were presented and accepted, those categories of cost the seller will be expected to pay at closing and by failing to prepare a written estimate of cost the seller will be expected to pay, to the extent the necessary cost information is reasonably available; Ch. 5-003.20 by failing to inform a buyer of zoning restrictions that might apply to certain real estate and could have an adverse impact upon Belding's intended use of the property; 81-885.24(29) by demonstrating incompetency to act as a broker by failing to exercise reasonable skill and care for his client Belding, failing to inform Belding of the zoning restrictions that might apply to property he purchased and which could have an adverse impact upon Belding's intended use of the property, and by failing to disclose a buyer knowledge of a lawsuit regarding the title to property owned by the Hasleys. <u>Barnard Swoboda</u>: Section 81-885.24(22) when Respondent made the representation that she was a Limited Buyer's Agent rather than a Limited Seller's Agent; 81-885.24(26) by violating a rule or regulation promulgated</p>	<p>2001-001, 2001-002, 2001-029 - Ronald E. & Julie A. Belding vs. Gary A. Barnard; Ronald P. & Vicki A. Hasley vs. Gary A. Barnard & Kerri Ann Barnard; Kevin Patrick McNenny & Frances Morrisette McNenny vs. Gary A. Barnard</p>	<p>December 18, 2001</p>	<p><u>G. Barnard</u>: Stipulation and Consent Order. License suspended for one (1) year from December 19, 2001, through December 18, 2002, with the first thirty (30) days served and the remainder served on probation; plus an additional twelve (12) hours of continuing education including three (3) hours in the area of disclosure, six (6) hours in the area of agency, and three (3) hours in the area of property exchanges to be completed by June 17, 2002. <u>Barnard Swoboda</u>: Stipulation and Consent Order. License censured; plus an additional six (6) hours of continuing education in the area of agency to be completed by June 17, 2002.</p>

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<p>by the Commission in the interest of the public, specifically, Title 299, NAC, Ch. 5-003.23, by failing as an agent of the seller to deliver a copy of the Seller Property Condition Disclosure Statement to the purchaser before the effective date of any contract entered into which binds the purchaser to purchase the real estate; 81-885.24(29) by demonstrating negligence.</p>	<p>2001-001, 2001-002, 2001-029 - Ronald E. & Julie A. Belding vs. Gary A. Barnard; Ronald P. & Vicki A. Hasley vs. Gary A. Barnard & Kerri Ann Barnard; Kevin Patrick McNenny & Frances Morrissette McNenny vs. Gary A. Barnard (continued)</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 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</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. <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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<p>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)&(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</p>	<p>2001-046 - Commission vs. Kenneth Lloyd Kirkeby & Melvin R. Dreyer (continued)</p>		

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<p>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 & Melvin R. Dreyer (continued)</p>		
<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)</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>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 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 (continued)</p>		
<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</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>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, 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 (continued)</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 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</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 \$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>

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<p>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 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</p>	<p>2013-016 – Commission vs. Todd S. Bartusek (continued)</p>		

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VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>299 Chapter 5 Section 003.23, Neb. Rev. Stat § 76-2421 (1), and Neb. Rev. Stat § 76-2422 (4). Violated Neb. Rev. Stat. § 76-2417(3)(a) (a) A licensee acting as a seller's or landlord's agent owes no duty or obligation to a buyer, a tenant, or a prospective buyer or tenant, except that a licensee shall disclose in writing to the buyer, tenant, or prospective buyer or tenant all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts pertaining to: (i) Any environmental hazards affecting the property which are required by law to be disclosed; (ii) the physical condition of the property; (iii) any material defects in the property; (iv) any material defects in the title to the property; or (v) any material limitation on the client's ability to perform under the terms of the contract, in that he did not disclose to the Complainants or their agent the February 3, 2015 Seller Property Condition Disclosure Statement (SPCD) or the October 2014 Water Event; violated Neb. Rev. Stat. § 299 NAC 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, in that he did not disclose to the Complainants or their agent the February 3, 2015 SPCD or the October 2014 Water Event at or prior to the time the Complainants signed an offer to purchase the Property; violated Neb. Rev. Stat. § 299 NAC 5-003.23 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, in that he did not deliver to the Complainants or their agent the February 3, 2015 SPCD prior to the closing of the transaction.</p>	<p>2013-016 – Commission vs. Todd S. Bartusek (continued) 2015-023 – Brian D. and Shannon M. Srb vs. David Lawton Kaseman</p>	<p>August 17, 2017</p>	<p>Hearing held August 17, 2017. License suspended for two (2) years with the first thirty (30) days served on suspension and the remainder of the period stayed and served on probation. Suspension commenced on September 28, 2017 and continues through October 27, 2017; Probation begins on October 28, 2017 and continues through September 28, 2019; plus pay a civil fine of \$1,000.00 due September 26, 2017; plus pay court report cost of \$240.00 due September 26, 2017; plus complete an additional six (6) hours of continuing education with three (3) hours each in the areas of Disclosure and License Law by February 27, 2018.</p>

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VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>Stipulation and Consent Order entered August 20, 2020. Kays violated Neb. Rev. Stat. §81-885.24(16) - Violating any provision of sections 76-2401 to 76-2430 when he failed to provide an agency disclosure form to seller; Kays violated Neb. Rev. Stat. §81-885.24(22) Making any substantial misrepresentations, when he made substantial misrepresentations regarding the Sellers Property Condition Disclosure Statement; Kays violated Neb. Rev. Stat. §§76-2421 (1) (a)(b) 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; Kays violated Neb. Rev. Stat. 76-2,120, specifically 76-2,120(2) Each seller of residential real property located in Nebraska shall provide the purchaser with a written disclosure statement of the real property's condition. The disclosure statement shall be executed by the seller, and Neb. Rev. Stat. 76-2,120(5) The disclosure statement shall be completed to the best of the seller's belief and knowledge as of the date the disclosure statement is completed and signed by the seller, when he made substantial misrepresentations regarding the Sellers Property Condition disclosure Statement; Kays 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, when he made substantial misrepresentations regarding the Sellers Property Condition Disclosure Statement and failed to provide an agency disclosure form to the seller at the first practicable opportunity.</p>	<p>2018-033 Michael J. Fix vs. Brian Eric Kays</p>	<p>August 20, 2020</p>	<p>License was suspended for a period of one (1) year with the entire period stayed and served on probation. Probation begins September 19, 2020 and continues thru September 19, 2021; Kays will need to take an additional three (3) hours of continuing education in the area of Disclosure due February 20, 2021; plus pay a civil fine of \$2,000.00, to be paid in installments of \$500.00 each due on September 19, 2020, October 19, 2020, November 18, 2020 & December 18, 2020.</p>

CHAPTER 5-003.23 - FAILURE TO DELIVER DISCLOSURE STATEMENT TO PURCHASER/AGENT (CONTINUED)