

CHAPTER 3-006 - IMPROPER TRANSFERRING OF FUNDS IN COOPERATIVE TRANSACTION

| VIOLATION  | COMPLAINT                                     | DATE OF ORDER      | PENALTY   |
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| Rule Title 299, Ch. 3-006 by failing to transfer earnest deposit to listing Broker.  | 89-015 - Pamela A. Ehrhart vs. Carolyn Sutton | January 29, 1990   | Order of Censure.   |
| Section 81-885.21(1) by disbursing part of an earnest deposit to a seller while contract was still pending without written authorization; Title 299, Ch. 3-002 by failing to keep Trust Account records in a form so it could be examined by Commission staff; Ch. 3-006 by failing to deposit an earnest deposit in a timely manner; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a Broker; and 81-885.24(19) by failing to include a fixed date of expiration on a listing agreement.   | 92-078 - Commission vs. Bennie C. Taylor      | June 8, 1993       | Suspend 24 months with last 18 months stayed and served on probation, provided 12 additional hours of continuing education are completed during said 6 months of active suspension.   |
| Section 81-885.21(1)(6) and 81-885.24(26)(29) and Title 299 NAC Ch. 3-006 and 5-003.13 Trust Account violations.   | 94-019 - Commission vs. Rudolf F. Plate       | June 8, 1994       | Stipulation and Consent Order. License suspended 1 year, with first 60 days served on suspension and the remainder stayed and served on probation, plus additional 6 hours of continuing education, 3 hours in Trust Accounts and 3 hours in license law. |
| 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; Title 299, NAC 5-003.13 by failing to deposit funds received as an earnest money deposit within 48 hours or before the end of the next banking day after an offer is accepted; Title 299, NAC 3-006 by failing to deposit an earnest money payment into his Trust Account within 48 hours or before the end of the next banking day after an offer is accepted, 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 when he failed to maintain a proper accounting system as evidenced by his failure to balance the check register after each entry, to date all receipts and disbursements, to include check numbers on all disbursements, to have a written bank reconciliation each | 94-032 - Commission vs. Gary Thomas Thompson  | September 28, 1994 | Stipulation and Consent Order. License suspended for 60 days, with entire 60 days stayed and served on probation, plus additional 3 hours of Trust Account education.   |

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| month showing all outstanding checks, to post checks daily, and to keep ledgers separate from the files.   | 94-032 - Commission vs. Gary Thomas Thompson       |                |  |
| 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.    | 96-046, 97-010 - Commission vs. Jillian Ann Currie | March 20, 1997 | 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.                      |
| 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 | 97-003 - Commission vs. Cameron Houston Thomas     | April 1, 1997  | 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. |

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| 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.  | 97-003 - Commission vs. Cameron Houston Thomas |               |   |
| 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 | 98-012 - Commission vs. Mark F. Abboud         | May 29, 1998  | 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. |

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| <p>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 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</p> |                          |   |
| <p>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 Law, 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 maintenance 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 cost the seller will be expected to pay at closing, and failing to obtain the signature of the seller on said written document; Ch. 3-006 by failing, in the case of cooperative sales between brokers, to deposit an earnest money payment in her real estate trust account within forty-eight hours or before the end of the next business day after an offer is accepted, in writing, and then forthwith transferring such earnest money deposit to the listing broker; Ch. 5-003.07 and Ch. 5-003.08 by failing to comply with 76-2401 through 76-2430 in the following particulars:</p> | <p>98-026 - Commission vs. Buree Stovall</p>  | <p>February 24, 1999</p> | <p>Stipulation and Consent Order. License suspended for two years, with first 90 days of said suspension served and the remaining suspension time stayed and served on probation; plus an additional 12 hours of continuing education to include 3 hours in trust accounts, 3 hours in agency and six hours as determined and approved by the Director.<br/>*Per Show Cause Hearing on June 26, 2001, license censured.</p> |

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| <p>76-2420 by failing to adopt a written policy which identifies and which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities; and 76-2421 by failing to provide a written copy of the current brokerage disclosure pamphlet to a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker at the earliest practicable opportunity during or following the first substantial contact 81-885.02 by conducting the business of a broker without an active real estate license; 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as the broker.</p>  | <p>98-026 - Commission vs. Buree Stovall</p>       |                     |   |
| <p>Section 81-885.21(2) by failing to notify the Commission of the name of the bank in which a trust account is maintained and provide the name of the account on forms provided by the Commission; 81-885.24(26) by violating any rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with Nebraska Real Estate License Act, specifically: Title 299, N.A.C. Ch. 3-002 by failing to maintain a bookkeeping system which clearly and accurately discloses full compliance with the laws relating to the maintaining of trust accounts; 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 cost 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 at closing; 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 as well as preparing a written estimate of the costs the purchaser will be expected to pay at closing; Ch. 5-003.14 by failing to deposit any funds received as earnest money 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 agreement; 76-2421(1) by failing, at the earliest practicable opportunity during or following the</p> | <p>2001-015 - Commission vs. Elaine R. Richman</p> | <p>May 22, 2001</p> | <p>Stipulation and Consent Order. Broker's license surrendered on May 29, 2001, and Salesperson's license issued on suspension from May 29, 2001, through June 11, 2001; salesperson license can only be active under supervision of Bruce R. Richman; plus an additional six (6) hours of continuing education to include three (3) hours in the area of agency and three (3) hours in the area of disclosures to be completed by November 21, 2001.</p> |

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| <p>first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with the designated broker, to 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; 76-2422(4) by acting as a dual agent without first obtaining a written agreement of the seller and buyer or landlord or 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; 81-885.24(29) by demonstrating negligence.</p>  | <p>2001-015 - Commission vs. Elaine R. Richman</p>     |                         |   |
| <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 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</p> | <p>2004-005 - Commission vs. Buree Stovall, Broker</p> | <p>December 7, 2004</p> | <p>Hearing held November 18, 2004. License revoked.</p> |

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| <p>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, 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> | <p>2004-005 - Commission vs. Buree Stovall, Broker</p> |               |         |

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CHAPTER 3-006 - IMPROPER TRANSFERRING OF FUNDS IN COOPERATIVE TRANSACTION (CONTINUED)