

CHAPTER 5-003.04 - FAILURE TO DISCLOSE LICENSEE INTEREST IN PROPERTY

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<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>
<p>Ch. 5-003.04 by failing to make known in writing to Complainant her interest as owner in the property she was selling to Complainant and no such written disclosure existed and there was, therefore, no opportunity for Complainant's signature to be obtained on said document.</p>	<p>96-049 - Leon P. Gansemer vs. Sherrie Gregory</p>	<p>May 14, 1997</p>	<p>Stipulation and Consent Order. License Censured.</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 inconsistent with the Nebraska Real Estate License Act, in each of the following particulars, Title 299, N.A.C. Ch 5-003.07 in each of the following particulars, by failing to comply with the following: 76-2419(2) and 76-2418(c)(iii) by failing to disclose in writing to the client adverse material facts; 76-2419(2) by failing to disclose to the buyer information relevant to the transaction or client; Ch 5-003.04 by failing to make known, in writing, to any purchaser, prior to the buyer becoming obligated to purchase the property, his interest in the property for sale;</p>	<p>98-013, 98-022, 98-024 - Commission vs. Kenneth John Jansen</p>	<p>March 23, 1999</p>	<p>Stipulation and Consent Order. License suspended from May 1, 1999 through December 31, 2000, with the first 45 days of said suspension served and the remaining time stayed and served on probation; plus twelve (12) hours of continuing education to include three (3) hours in agency, three (3) hours in disclosures, three (3) hours in license law, and three (3) hours to be determined by Director.</p>

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81-885.24(29) by demonstrating negligence to act as a broker.	98-013, 98-022, 98-024 - Commission vs. Kenneth John Jansen		
Ch. 5-003.04 by failing to make know, in writing, to the initial prospective purchaser any interest Respondent had in the property he was selling and that the required disclosure was not made prior to the initial buyer becoming obligated to purchase the property in question.	1999-030 - Commission vs. H. Michael Cutler	December 15, 1999	Stipulation and Consent Order. 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, specifically, the Respondent violated Title 299, N.A.C., Ch. 5-003.04 by failing to make known, in writing, to a purchaser any interest the Respondent had in the property he was selling prior to the buyer becoming obligated to purchase the property.	2000-034 - Commission vs. Michael Gene Sonnefelt	August 24, 2000	Stipulation and Consent Order. License censured.
Title 299, Ch. 5-003.04 by failing to make know, in writing, to any purchaser or seller any interest the licensee has in the property he is buying or selling. In a situation where a licensee is purchasing property for themselves or for an entity in which they have an interest, said written disclosure by the licensee shall take place prior to the Seller becoming obligated to sell such property; Ch. 5-003.08 by failing to disclose Respondent was acting in the dual capacity of agent and principal in a transaction as set forth in 81-885.24(9) in writing prior to, but no later than the time the other principal enters into an agreement to purchase property from or sell the property to the licensee. Said written disclosure shall be signed by the other principal to the transaction and a copy of the signed disclosure shall be maintained in the transaction file; Ch. 5-003.09 in that said licensee acted for more than one party in a transaction without the informed written consent of all parties involved in the transaction. Informed written consent means the licensee must obtain the written agreement of all said parties as well as the licensee's employing broker prior to acting in such a manner.	2002-012 - Phillip T. & Sandra L. Jennings vs. Victor J. Pelster	September 25, 2002	Stipulation & Consent Order. License censured; 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 disclosures, to be completed by March 24, 2003.

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<p>Section Title 299 Chapter 5-003.04 Failure to make known, in writing, to any purchaser or seller any interest the licensee has in the property he or she is buying or selling. If the licensee has any interest in the property for sale, said written disclosure shall take place prior to the buyer becoming obligated to purchase the property. In a situation where a licensee is purchasing property for themselves or for an entity in which they have any interest, said written disclosure by the licensee shall take place prior to the seller becoming obligated to sell such property. Said written disclosure shall be signed and dated by the other party. A copy of the signed and dated disclosure shall be maintained by the licensee for five years from the date of the receipt by the other party. In a case where the subject property is listed by a real estate broker, such disclosure may be maintained in the transaction file in accordance with 299 NAC 3-001.] Wear failed to disclose to the purchaser and seller, in writing, his interest in the property being bought or sold.</p>	<p>2006-040 - Lawrence E. Masilko vs Christopher Darby Wear</p>	<p>November 2, 2006</p>	<p>Stipulation and Consent Order. License censured; Plus an additional three (3) hours of continuing education in the area of license law to be completed by January 31, 2007.</p>
<p>Violated Neb. Rev. Stat. § 76-2417 (1) (b) & (c) (iv). Froehlich failed to advise the seller to obtain expert advice as to the price and marketability of a unit in an out-of-state resort which was being offered by buyers as part of the purchase price, of which unit Froehlich had knowledge as an owner of an interest in the same unit, but lacked the expertise to advise the seller of the price or the marketability; and Violated Neb. Rev. Stat. § Title 299, Chapter 5, Section 003.04. Froehlich failed to make known, in writing, to the seller, Froehlich's interest in a unit in the out-of-state resort prior to the seller being obligated to acquire the interest in the unit.</p>	<p>2012-001 – Commission vs. Monte L. Froehlich</p>	<p>June 28, 2012</p>	<p>Stipulation and Consent Order entered June 28, 2012. License censured; Plus a civil fine of \$1,000.00 to be paid by July 28, 2012; plus complete twelve (12) hours of additional continuing education in the areas of "Agency", "Disclosures", "Ethics" and "License Law" by December 25, 2012.</p>
<p>Lerner violated Title 299 Chapter 5-003.04 Failure to make known, in writing, to any purchaser or seller any interest the licensee has in the property he or she is buying or selling. If the licensee has any interest in the property for sale, said written disclosure shall take place prior to the buyer becoming obligated to purchase the property. In a situation where a licensee is purchasing property for themselves or for an entity in which they have any interest, said written</p>	<p>2022-013 Nebraska Real Estate Commission v. Jay Lerner</p>	<p>October 20, 2022</p>	<p>Stipulation and Consent Order entered October 20, 2022. License placed on probation for a period of one (1) year with the entire period stayed and served on probation. The probation period shall commence on October 20, 2022; plus pay a civil fine of \$2,000.00 due January 18, 2023; plus complete an additional 3 hours</p>

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disclosure by the licensee shall take place prior to the seller becoming obligated to sell such property. Said written disclosure shall be signed and dated by the other party. A copy of the signed and dated disclosure shall be maintained by the licensee for five years from the date of the receipt by the other party. In a case where the subject property is listed by a real estate broker, such disclosure may be maintained in the transaction file, in accordance with 299 NAC 3-001.	2022-013 Nebraska Real Estate Commission v. Jay Lerner (continued)		of continuing education hours in the area of ethics. These hours are due April 18, 2023; plus if Mr. Lerner violates any law administered by the Nebraska Real Estate Commission during the entirety of his probationary period, it may result in a Show Cause proceeding being brought against him by the Commission, the Commission may, as a result of the findings of such hearing, impose any other sanctions as provided in the Nebraska Real Estate License Act.
Stipulation and Consent order entered on September 26, 2023. [Licensee failed to disclose any interest in the property violating Title 299 Ch 5, Section 003.04 and Neb. Rev Stat. § 81-885.24 (29)	2023-013 Judy Evans v. Elizabeth Ann Nielsen	September 26, 2023	Licensee was placed Probation for a period of one (1) year. Probation commenced on October 26, 2023 and continues through October 26, 2024; plus pay a civil fine of \$1,000.00 due by December 25, 2023; plus complete an additional six (6) continuing education hours in the area of License Law which must be completed by March 25, 2024.