

SECTION 81-885.24(4) - COMMINGLING MONEY

VIOLATION	COMPLAINT	DATE OF ORDER	PENALTY
<p>Section 81-885.24(7) by representing himself as an independent Broker, other than his employer, without knowledge or consent of his employer; 299 NAC 3-002 and 3-003 by failing to maintain an accurate bookkeeping system and failing to deposit rents and security deposits in an insured non-interest bearing checking account in the name under which he does business; 81-885.24(4) by commingling monies of his principals with that of his own; and 81-885.24(29) by demonstrating unworthiness to act as a real estate Broker.</p>	<p>92-050 - Commission vs. Charles Lloyd Elson</p>	<p>October 28, 1992</p>	<p>Stipulation & Consent Order. License censured.</p>
<p>Section 81-885.24(19) by failing to include a fixed date of expiration in any written listing agreement and failing to leave a completed copy of agreement with principal; 81-885.24(4) by commingling property with his own property; and 81-885.24(29) by demonstrating negligence, incompetency or unworthiness.</p>	<p>93-036 - Commission vs. Charles DeVetter, Jr.</p>	<p>May 4, 1994</p>	<p>Suspended for 3 years with last 2 2 years stayed and served on probation, plus attend a business ethics course.</p>
<p>Section 81-885.24 (3) Failing to account for and remit any money coming into his possession belonging to others; Neb. Rev. Stat. ' 81-885.24 (4) Co-mingling client money or other property with his own; Neb. Rev. Stat. ' 81-885.24 (5) Failing to maintain and deposit into a separate non-interest bearing checking account all money received by him unless all parties having an interest in the funds have agreed otherwise in writing; Neb. Rev. Stat. ' 81-885.24 (22) Making a substantial misrepresentation; Neb. Rev. Stat. ' 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker; Neb. Rev. Stat. ' 76-2421 (1) for 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, 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)</p>	<p>2003- 038 - Commission vs. Mark Lester Stecker</p>	<p>January 12, 2005</p>	<p>Stipulation & Consent Order dated January 12, 2005. License suspended for two (2) years from date license of license renewal for 2005 plus an additional six (6) hours of continuing education, including three (3) in farm brokerage and three (3) in farm management to be completed within the two year suspension period. If not completed the suspension remains in effect until successful completion of the courses.</p>

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<p>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; and, Neb. Rev. Stat. 76-2422 (6) by failing, before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418, to enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation.</p>	<p>2003- 038 - Commission vs. Mark Lester Stecker</p>		
<p>Section 81-885.21 (1) Each broker other than an inactive broker shall maintain in a bank, savings bank, building and loan association, or savings and loan association a separate, insured non-interest-bearing checking account in this state in his or her name or the name under which he or she does business which shall be designated a trust account in which all downpayments, earnest money deposits, or other trust funds received by him or her, his or her associate brokers, or his or her salespersons on behalf of his or her principal or any other person shall be deposited and remain until the transaction is closed or otherwise terminated unless all parties having an interest in the funds have agreed otherwise in writing; Title 299 Chapter 3.001 It shall be the duty of every broker to preserve for five years, following its consummation, records relating to any real estate transaction; 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; Title 299 Chapter 3.002 Every broker shall maintain a bookkeeping system which will accurately and clearly disclose full compliance with the law relating to the maintaining of trust accounts; Neb. Rev. Stat. ' 81-885.24 (5) Failing to maintain and</p>	<p>2006-046 - Commission vs Lucie Jungjohann-Hazel</p>	<p>November 2, 2006</p>	<p>Stipulation and Consent Order. License revoked.</p>

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<p>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; Neb. Rev. Stat. § 81-885.24 (22) Making any substantial misrepresentations; Neb. Rev. Stat. § 81-885.24 (3) Failing to account for and remit any money coming into his or her possession belonging to others; Neb. Rev. Stat. § 81-885.24 (4) Commingling the money or other property of his or her principals with his or her own; and Neb. Rev. Stat. § 81-885.24 (29) Demonstrating negligence, incompetency, or unworthiness to act as a broker for violating each of the above license laws. Jungjohann failed to maintain a bookkeeping system which clearly and accurately accounted for trust funds coming into her possession; Jungjohann failed to deposit trust funds coming into her possession into a trust account; Jungjohann failed to preserve for five years, records relating to a real estate transaction; Jungjohann made substantial misrepresentations; Jungjohann failed to account for and remit any money coming into her possession belonging to others; Jungjohann commingled money of her principals with her own; and Jungjohann demonstrated negligence, incompetence, or unworthiness to act as a broker.</p>	<p>2006-046 - Commission vs Lucie Jungjohann-Hazel</p>		
<p>Violated Neb. Rev. Stat. § 76-2422(4) 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</p>	<p>2014-013 – Commission vs. Jane Hartman Heimbouch</p>	<p>June 25, 2014</p>	<p>Stipulation and Consent Order entered June 25, 2014. License revoked.</p>

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<p>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, by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note the refusal of an individual to sign an Agency Disclosure; Neb. Rev. Stat. § 81-885.01(2) Broker means any person who, for any form of compensation or consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, lease, or option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, gives a broker's price opinion or comparative market analysis, or holds himself or herself out as engaged in any of the foregoing. Broker also includes any person: (a) Employed, by or on behalf of the owner or owners of lots or other parcels of real estate, for any form of compensation or consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who auctions, offers, attempts, or agrees to auction real estate; or (c) who buys or offers to buy or sell or otherwise deals in options to buy real estate, by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note the refusal of an individual to sign an Agency Disclosure; Neb. Rev. stat. § 81-885.24(16) Violating any provision of sections 76-2401 to 76-2430; by failing to disclose in writing brokerage services, to have</p>	<p>2014-013 – Commission vs. Jane Hartman Heimbouch</p>		

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<p>clients sign an Agency Disclosure and to note the refusal of an individual to sign an Agency Disclosure; Neb. Rev. State § 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 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, by failing to disclose in writing brokerage services, to have clients sign an Agency Disclosure and to note that an individual refused to sign an Agency Disclosure; Neb. Rev. State § 81-885.24(3) Failing to account for and remit any money coming into his or her possession belonging to others by failing to timely deposit or remit earnest monies, failed to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(4) Commingling the money or other property of his or her principals with his or her own, by failing to timely deposit or remit earnest monies, also failed to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(24) Failing by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his or her employing broker any deposit money or other money or funds entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or</p>	<p>2014-013 – Commission vs. Jane Hartman Heimboch</p>		

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<p>utility charges; 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; by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges; 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, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients, to account for money belonging to others with respect to irrigation payments or utility charges, to deliver a written copy of offers and/or purchase agreements and to protect interests of her clients. Heimboch also failed to truthfully and timely inform her clients of the status of transactions concerning their properties and to competently complete paperwork; 299 NAC 3-005 Earnest money deposits and other deposits relating to the sale of real estate shall be kept in a separately identified trust account and all other trust funds may be deposited in another separately identified trust account, by failing to timely deposit or remit earnest monies, to keep separate and/or commingling earnest money received from clients, to account for money belonging to others with respect to irrigation payments or utility charges, to deliver a written copy of offers and/or purchase agreements and failed to protect the interests of her clients; 299 NAC 5-003.14 Failure to deposit any funds received as an earnest money deposit 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. In the event an offer is not accepted, said earnest money deposit shall be returned forthwith, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients and to account for money belonging to others with respect to irrigation payments or utility charges;</p>	<p>2014-013 – Commission vs. Jane Hartman Heimboch</p>		

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<p>299 NAC 5-003.15 Withholding earnest money when the purchaser or seller is rightfully entitled to the money; provided, a broker may retain funds to cover expenses he or she has prepaid for a purchaser or seller from the broker's funds, by failing to timely deposit or remit earnest monies, to keep separate earnest money from clients, and to account for money belonging to others with respect to irrigation payments or utility charges; Neb. Rev. Stat. § 81-885.24(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller, by failing to deliver a written copy of the offer and/ or purchase agreements; 299 NAC 5-003.18 Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted when the licensee is: the limited seller's agent for the property; the prospective purchaser's limited buyer's agent; or the dual agent of the seller and the prospective purchaser, by failing to deliver a written copy of offers and/or purchase agreements; Neb. Rev. Stat. § 81-885.24(22) Making any substantial misrepresentations, by advising clients of offers without the necessary documents and also disclosing personal information about possible clients.</p>	<p>2014-013 – Commission vs. Jane Hartman Heimbouch</p>		
<p>Torrence violated Neb. Rev. Stat. §76-2417 Seller's agent or landlord's agent; powers and duties; confidentiality; immunity; disclosures required. (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: (a) To perform the terms of the written agreement made with the client; (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, including: (i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease, (ii) Presenting</p>	<p>2020-034 – Commission vs. Michele Torrence</p>	<p>February 24, 2021</p>	<p>Stipulation and Consent Order entered February 24, 2021. License is Suspended for a period of five (5) years. Suspension begins March 26, 2021 and continues thru March 26, 2026; plus complete and additional six (6) hours of continuing education in course #0003-Developing Professional Conduct and Ethical Practices by January 25, 2026; plus pay a civil fine of \$1,500.00 by March 26, 2021.</p>

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<p>all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease; (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; (d) To account in a timely manner for all money and property received; (e) to comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and (f) to comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations. (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. (3) (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. (b) A seller's or landlord's agent owes no duty to conduct an independent inspection of the property for the benefit of the buyer, tenant, or prospective buyer or tenant and owes no duty to independently verify</p>	<p>2020-034 – Commission vs. Michele Torrence (continued)</p>		

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<p>the accuracy or completeness of any statement made by the client or any independent inspector. (4) A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client. (5) (a) A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents. (b) Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections (1) through (4) of this section, when she removed funds from her broker trust account without proper authorization; violated Neb. Rev. Stat. §76-2418 Buyer's agent or tenant's agent; powers and duties; confidentiality; immunity; disclosures required. (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations: (a) To perform the terms of any written agreement made with the client; (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, including: (i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease; (ii) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease; (iii) Disclosing in writing to the client 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; (d) To account in a timely manner for all money and property received; (e) To comply with all requirements of sections 76-2401 to 76- 2430, the Nebraska Real Estate License Act, and any rules and</p>	<p>2020-034 – Commission vs. Michele Torrence (continued)</p>		

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<p>regulations promulgated pursuant to such sections or act; and (f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations. (2) A licensee acting as a buyer's or tenant'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 buyer's or tenant's agent for making any required or permitted disclosure. (3) (a) A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a seller, a landlord, or a prospective seller or landlord, except that the licensee shall disclose in writing to any seller, landlord, or prospective seller or landlord all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts concerning the client's financial ability to perform the terms of the transaction. (b) A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector. (4) A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property. (5) (a) A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents. (b) Any designated broker acting as a subagent on the buyer's or tenant's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections (1) through (4) of this section, when</p>	<p>2020-034 – Commission vs. Michele Torrence (continued)</p>		

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<p>she removed funds from her broker trust account without proper authorization; violated Neb. Rev. Stat. § 81-885.24(4) Commingling the money or other property of his or her principals with his or her own, when she removed funds from her broker trust account without proper authorization; 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 she removed funds from her broker trust account without proper authorization.</p>	<p>2020-034 – Commission vs. Michele Torrence (continued)</p>		
<p>Stipulation and Consent Order entered on August 17, 2023.[Ms. Porter's failure to deposit in a separate trust account all monies received, failure to provide accurate accounting, and failure to remit monies owed constitutes a violation of NEB. REV. STAT. § 76-2418 (1) (a-e), NEB. REV. STAT. § 81-885.24 (3), NEB. REV. STAT. § 81-885.24 (4), NEB. REV. STAT. § 81-885.24 (5), 299 NAC 5-003.07, and NEB. REV. STAT. § 81-885.24 (16). Ms. Porter's representations that she was licensed to conduct property management for Mr. Erickson, as well as other landlords, and her unwillingness to turn over any documentation to the Commission is a violation of NEB. REV. STAT. § 81-885.02, NEB. REV. STAT. § 81-885.03 (2), NEB. REV. STAT. § 81-885.24 (26), and 299 NAC 2-003.07(c). Ms. Porter's representations that she had the appropriate license to conduct property management for Mr. Erickson, as well as other landlords, and her unwillingness to turn over documentation to the Commission is a violation of NEB. REV. STAT. § 81-885.24 (22), 299 NAC 5-003.17, and NEB. REV. STAT. § 81-885.24 (29).]</p>	<p>2023-002 Richard Erickson v. Tanya Ann Porter</p>	<p>August 17, 2023</p>	<p>License was revoked; plus pay a civil fine of \$2,500 due by November 16, 2023.</p>