

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE AUCTIONEER BOARD

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IN THE MATTER OF THE DISCIPLINARY : FINAL DECISION AND ORDER  
PROCEEDINGS AGAINST : AS TO CRAIG L. OTTO  
: AND TRANS-GROUP LLC  
CRAIG L. OTTO, TRANS-GROUP LLC, AND :  
CARL H. SEITZ, : LS 0812292 AUC  
RESPONDENTS. :

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Division of Enforcement Case File # 05 AUC 018

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Craig L. Otto  
P.O. Box 530  
Fremont, WI 54940

Trans-Group LLC  
P.O. Box 530  
Fremont, WI 54940

Wisconsin Auctioneer Board  
P.O. Box 8935  
Madison, WI 53708

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Auctioneer Board on December 29, 2008. Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable. Accordingly, the Board adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

## FINDINGS OF FACT

1. **Craig L. Otto**, is a registered auctioneer in the state of Wisconsin having registration #52-109, which was first granted on 03/01/95. Mr. Otto's most recent address on file with the Department of Regulation and Licensing is P.O. Box 530, Fremont, WI 54940. Mr. Otto is also licensed in Wisconsin as a real estate broker.

2. **Trans-Group LLC** is a registered auction company in the state of Wisconsin having registration #53-264, which was first granted on 12/03/01. Trans-Group LLC's most recent address on file with the Department of Regulation and Licensing is P.O. Box 530, Fremont, WI 54940. Trans-Group LLC is also licensed in Wisconsin as a real estate business entity.

3. Mr. Otto is the owner of Trans-Group LLC.

4. On or about May 4, 2005, a real estate auction contract was entered into between Trans-Group LLC and Herbert and Patricia Reynolds for a real estate auction of the Reynolds' property located at N45W25011 Lindsay Rd., Pewaukee, WI. The contract was signed by the Reynolds and by Mr. Otto.

5. The contract provided that "House in the Woods" would be responsible for calling bids at the real estate auction.

6. House in the Woods Auction Gallery Inc. is registered in Wisconsin as an auction company and is owned by Carl H. Seitz, a Wisconsin registered auctioneer. The understanding was that Carl Seitz would call the auction, and Mr. Otto and Trans-Group would handle the real estate management of the real estate auction.

7. The contract between Trans-Group and the Reynolds did not specify the date or time of the auction.

8. The contract between Trans-Group and the Reynolds did not contain the auction company registration number for Trans-Group or the auctioneer registration number for Mr. Otto and also did not contain the auction company registration number for House in the Woods or the auctioneer registration number for Mr. Seitz.

9. On or about May 4, 2005, a separate real estate auction contract was entered into between Trans-Group and Timothy and Brenda Ringel for the auction of their property in combination with the sale of the Reynolds property.

10. The Reynolds property and the Ringel property were adjoining parcels and the Reynolds and Ringels agreed to try to sell their properties as part of the same real estate auction.

11. The contract between Trans-Group and the Ringels stated that the auction would take place on Wednesday June 29, 2005 at 10:00 a.m.

12. The contract between Trans-Group and the Reynolds did not contain the auction company registration number for Trans-Group or the auctioneer registration number for Mr. Otto and also did not contain the auction company registration number for House in the Woods or the auctioneer registration number for Mr. Seitz.

13. Mr. Otto and Trans-Group have modified their standard auction contract to include all required auctioneer and auction company registration numbers.

14. It was the parties' understanding that a total of \$5,000.00 was required to cover the marketing, advertising and other auction expenses for both the Reynolds property and the Ringel property.

15. Mr. Ringel did not have any money to contribute to the expenses. The Reynolds paid the full \$5,000.00 for expenses up-front.

16. Mr. Otto has acknowledged that the Reynolds were going to be reimbursed by Mr. Ringel for his share of the marketing and advertising expenses if the Ringel property sold.
17. However, nothing in the contract Trans-Group had with the Reynolds stated how or if the Reynolds would be reimbursed by Mr. Ringel for a portion of the marketing and advertising costs.
18. The contract between Trans-Group and the Reynolds stated that the Reynolds “agree[d] to pay all expenses for this auction including \$800 marketing fee to Trans-Group LLC and \$4,200.00 for newspaper, expenses and other marketing materials.” The contract provided that the \$5,000.00 would be “paid in advance and used to market the Ring[el] property and this property.”
19. In the contract between Trans-Group and the Ringels, it stated that the Ringels “agree[d] to pay all expenses for this auction including \$800 marketing fee to Trans-Group LLC . . . [and] agree[d] to pay said costs not to exceed \$5,000.” The contract stated that “payment shall be as follows: prorated based on sales prices of this property and neighbors property next door which is combined with this auction. TO BE DEDUCTED AT CLOSING OR NOT DUE IF PROPERTY DOESN’T SELL.”
20. The way the contracts were written with respect to the advertising and marketing fees was confusing and did not adequately reduce all of the terms of the agreement to writing.
21. On the date of the auction, after no bids at the reserve price were received on the individual properties, the Reynolds property and the Ringel property were combined for sale. No acceptable bid was made by any potential buyers and the properties were not sold.
22. At all times relevant to this action, the Reynolds and Ringel properties were zoned residential by the City of Pewaukee.
23. Advertising for the Reynolds/Ringel auction identified the property as having “commercial potential,” when the property was zoned residential with no plan for it to be rezoned commercial.

#### CONCLUSIONS OF LAW

1. The Wisconsin Auctioneer Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 480.24 and the Wisconsin Auctioneer Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. Respondents **Craig L. Otto** and **Trans-Group LLC** have violated:
  - a. Wis. Admin. Code § RL 124.02(1), by failing to include the state registration number in the auction contracts with the Reynolds and the Ringels;
  - b. Wis. Admin. Code § RL 124.02(6), by failing to include the date of the auction in the auction contract with the Reynolds;
  - c. Wis. Admin. Code § RL 124.02(4), by failing to provide in the auction contracts with the Reynolds and the Ringels a clear and adequate description of how the advertising and marketing fees would be allocated between the parties, and by failing to adequately describe the allocation of the auction proceeds to the Reynolds and the Ringels; and
  - d. Wis. Admin. Code § RL 123.02, by advertising the Reynolds and Ringel properties in a manner that was misleading by stating the properties zoned as residential had “commercial potential.”

3. Craig L. Otto and Trans-Group LLC are subject discipline pursuant to Wis. Stat. § 480.24(2)(d) and (j).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The auctioneer registration of Craig L. Otto, #52-109, and the auction company registration of Trans-Group LLC, #53-264, are hereby **LIMITED** as follows: Craig L. Otto and Trans-Group LLC **SHALL NOT** engage in, or advertise or otherwise hold themselves out as being available to engage in, **the auction of real estate**; this limitation shall begin on the date this Order is signed by the Board.

2. This limitation shall continue until Mr. Otto and Trans-Group petition the Board for removal of the limitation and restoration of unlimited registrations, and such petition is granted by the Board. The earliest date on which Mr. Otto and Trans-Group may petition the Board for removal of the limitation is 30 days from the date of this Order.

3. Before any such petition may be filed with the Board, Craig T. Otto shall successfully complete, including any testing component offered for the courses, a minimum of 3 classroom hours of education in real estate auctions, and 3 hours in real estate or auction contracts. Any such educational courses shall be pre-approved by the Board or its designee. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing

4. Before any petition for removal of the limitation and restoration of unlimited registration will be considered by the Board, it must include the following:

- a. proof of successful completion of the 3 hours of pre-approved education in real estate auctions and 3 hours of pre-approved education in real estate or auction contracts in the form of verification from the institution providing the education;
- b. a certification from Mr. Otto, signed under oath, stating the following:
  - i. That Craig L. Otto and Trans-Group LLC have not engaged in, or advertised or otherwise held themselves out as being available to engage in, the auction of real estate during the period of the limitation; and
  - ii. That Craig L. Otto and Trans-Group LLC have not, during the period of limitation, been arrested for, charged with, or convicted of criminal activity that substantially relates to the practice of auctioneering.

5. The Board may request the personal appearance of Craig L. Otto before granting any petition for removal of the limitation on the auction registration of Craig L. Otto and/or Trans-Group LLC.

IT IS FURTHER ORDERED THAT:

6. Craig L. Otto shall, within 180 days of the date of this Order, pay **COSTS** of this matter in the amount of FIVE HUNDRED DOLLARS (\$ 500.00).

7. Trans-Group LLC shall, within 270 days of the date of this Order, pay **COSTS** of this matter in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00).

8. Payment of costs (made payable to the Wisconsin Department of Regulation and Licensing, by certified check or money order) shall be mailed or delivered to the Department Monitor at this address:

Department Monitor

Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 267-3817, Fax (608) 266-2264

9. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' registrations. In its discretion the Board may, in the alternative, impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

10. This Order is effective on the date of its signing.

WISCONSIN AUCTIONEER BOARD

By: Patrick McNamara  
A Member of the Board

4/28/09  
Date