

AAR Risk Management Committee 2014 Business Plan

FROM: Risk Management Committee (RMC)

Chairman: Tahona Epperson

Vice Chairman: Martha Appel

RMC Liaison: Scott Drucker

DATE: April 15, 2014

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CURRENT TOP PRIORITIES

Scheduled RMC Meetings: May 1st, August 7th, and October 30th

- **Continue Grievance Committee and Professional Standards support**
 - Maintain and enhance Ethics hearing and Arbitration hearing process
 - Professional Standards Newsletter
- **Enhance dispute resolution services**
 - Administer the Buyer/Seller Dispute Resolution System (DRS) and Mediation program.
 - Professional Standards Workshop held on January 22, 2014
 - Professional Standards Policy & Training Workgroup met on March 13, 2014
- **Forms**
 - Residential SPDS revision
 - Referral Fee Agreement
- **Legal Hotline Support**
 - Continue promotion efforts
 - Legal Hotline Workgroup met on December 5, 2013
- **Regulatory Issues**
 - Continue to work with ADRE
 - Attended Regulatory Agency Workgroup on January 28, 2014
 - Attended ADRE Advisory Board meeting on February 19, 2014
- **Risk management education and information**
 - AZR articles
 - Arizona Broker/Manager Quarterly
 - Webinar held on March 12, 2014

RECOMMENDATIONS

- Risk Management recommends that a revised Residential Seller's Property Disclosure Statement be approved for release to all members on or about June 2, 2014.

GROUPS FORMED

- Grievance Committee
- Professional Standards Committee
- Professional Standards Policy & Training workgroup
- Property Management forms workgroup
- Referral Fee Agreement workgroup
- Residential SPDS revision workgroup

- Regulatory Agency workgroup
- Legal Hotline Workgroup

The following are programs, products, services and activities (PPSA's) with Risk Management Committee oversight.

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PROFESSIONAL STANDARDS

Professional Standards Administration is the processing of ethics complaints and arbitration requests.

This program involves:

- **Grievance Committee (GVC):** Process complaints/monthly meetings
- **Professional Standards Committee (PSC):** Schedule and staff hearings
- **Professional Standards Policy and Training Workgroup:** Reviews policies and implements training

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • GVC: Prompt review of complaints 	<ul style="list-style-type: none"> • 1st Quarter Filings Ethics = 18 (12 Forwarded) Arbitrations = 5 (4 Forwarded)
<ul style="list-style-type: none"> • PSC: Complete ethics cases promptly 	<ul style="list-style-type: none"> • 1st Quarter Ethics Filed= 18 Held = 2
<ul style="list-style-type: none"> • PSC: Complete arbitrations promptly 	<ul style="list-style-type: none"> • 1st Quarter Arbitrations Filed = 5 Held = 1
<ul style="list-style-type: none"> • Update PS policy adaptations as necessary 	<ul style="list-style-type: none"> • On-going

Mediation Program This program involves facilitating mediations to resolve ethics complaints and arbitration requests.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Facilitate mediation requests on a timely basis 	<ul style="list-style-type: none"> • 1st Quarter Mediation Filed = 13 Held = 3 Successful = 2
<ul style="list-style-type: none"> • Receive positive feedback from mediation evaluations 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Maintain list of qualified mediators 	<ul style="list-style-type: none"> • 21 mediators for 2014
<ul style="list-style-type: none"> • Update mediation policies and procedures as necessary 	<ul style="list-style-type: none"> • Revisions implemented in December 2013

Ombudsman Program This program involves taking complaint calls/emails and facilitating Ombudsman contact to attempt resolution.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Facilitate ombudsman requests on a timely basis 	<ul style="list-style-type: none"> 1st Quarter Ombudsmen requests Filed = 12 In process = 0 Successful = 11
<ul style="list-style-type: none"> Receive positive feedback from ombudsman evaluations 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Maintain list of qualified ombudsmen 	<ul style="list-style-type: none"> 20 Ombudsmen for 2014
<ul style="list-style-type: none"> Update PS policy adaptations as necessary 	<ul style="list-style-type: none"> Revisions implemented in December 2013

Professional Standards, Mediation, and Ombudsman Education and Training

This program includes training for members of Grievance and Professional Standards Committees and AAR Mediators and Ombudsmen.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Offer PS Training for GVC and PS Committee 	<ul style="list-style-type: none"> Held January 22, 2014
<ul style="list-style-type: none"> PS Policy & Training Workgroup Meeting 	<ul style="list-style-type: none"> Held March 12, 2014
<ul style="list-style-type: none"> Offer Mediator training 	<ul style="list-style-type: none"> Held October 24, 2013
<ul style="list-style-type: none"> Offer Ombudsman training 	<ul style="list-style-type: none"> Held October 24, 2013
<ul style="list-style-type: none"> Offer hearing panel chair training 	<ul style="list-style-type: none"> Held November 14, 2013
<ul style="list-style-type: none"> Publish PS, Mediation and Ombudsman information 	<ul style="list-style-type: none"> Newsletter sent January 2014 and April 2014
<ul style="list-style-type: none"> PS outreach to members 	<ul style="list-style-type: none"> On-going

Dispute Resolution System (DRS) This program provides alternative dispute resolution options (mediation or arbitration) for buyers and sellers to resolve disputes or claims arising out of the AAR purchase contract.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Offer an effective DRS program 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Recruit effective DRS providers 	<ul style="list-style-type: none"> 25 Mediators currently
<ul style="list-style-type: none"> Ensure compliance of DRS providers with program's directives 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Receive positive feedback from DRS evaluations 	<ul style="list-style-type: none"> On-going

RISK MANAGEMENT

Forms Development This program involves:

Drafting - Draft new forms as needed and revise current forms

Education - Forms information updates on website, emails and other communication vehicles.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Workgroups formed as necessary 	<ul style="list-style-type: none"> • Property Management forms workgroup • Assumption/Carryback Addendum workgroup • SPDS workgroup • Referral Fee Agreement Workgroup
<ul style="list-style-type: none"> • Forms drafted or revised for introduction in February as necessary 	<ul style="list-style-type: none"> • Motions for ExCom approval 01/17/14 <ul style="list-style-type: none"> • <i>Revised</i> Residential Lease Agreement • <i>New</i> Mutual Cancellation of Property Management Agreement • <i>New</i> Notice of Cancellation of Property Management Agreement • <i>Revised</i> Buyer Contingency Addendum
<ul style="list-style-type: none"> • Forms drafted or revised for introduction in June as necessary 	<ul style="list-style-type: none"> • Motions for ExCom approval 04/15/14 <ul style="list-style-type: none"> • <i>Revised</i> Residential Seller's Property Disclosure Statement
<ul style="list-style-type: none"> • Deliver timely forms information/education 	<ul style="list-style-type: none"> • Articles posted on AARonline.com, AAR Blog and AZR magazine

Legal Hotline This program allows designated brokers/managers to call in to the Hotline attorneys for answers to real estate-related legal questions, and includes:

- Program maintenance and monitoring
- Review of letters of opinion/articles for publication

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Promote Hotline usage 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Hotline to prepare ten Q&As on current issues/current "hot topics" six times per year for the Arizona REALTOR® Digest and AAR website 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Hotline to maintain statistics on number and types of calls in cooperation with AAR staff 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Hotline attorney to attend AAR Risk Management Committee or Workgroup meetings as requested 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Hotline attorney to review new or revised AAR forms and notify AAR of any legal concerns or recommendations 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Hotline attorney to consult with AAR General Counsel on legal issues as requested 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Evaluate Hotline program by surveying members 	<ul style="list-style-type: none"> • Workgroup met on December 5, 2013
<ul style="list-style-type: none"> • Form Hotline Workgroup to evaluate program 	<ul style="list-style-type: none"> • Workgroup formed

Industry Issues This program involves addressing current industry issues.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Develop system to maintain claims statistics to identify liability trends 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • Foster alliances with defense attorneys and E&O carriers and mediators 	<ul style="list-style-type: none"> •

Legal & Industry Publications This program includes:

- Risk Management articles for AAR publications, ASREB Journal and other publications
- Articles on emerging legal issues for AAR publications, ASREB Journal and other publications
- *Arizona Real Estate: A Professional's Guide to Law and Practice*
- Broker/Manager Risk Management Update
- Buyer Advisory
- Short Sale Seller Advisory
- Legal information and risk management information on website
- Risk Management Brochures

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Distribution of time sensitive legal and risk management information and articles 	Articles published on: <ul style="list-style-type: none"> • Revised Seller Financing Addenda to Assist with Dodd-Frank Act Compliance • Counteroffers – A Risky Proposition • Economic Substance Doctrine • Advanced Dodd-Frank Scenarios • zipForm strike-out • Revised Residential Lease Agreement • Revised Buyer Contingency Addendum • Forms translated into Spanish
<ul style="list-style-type: none"> • Deliver Arizona Broker/Manager Quarterly 	<ul style="list-style-type: none"> • Issue sent March 2014
<ul style="list-style-type: none"> • Maintain and update Buyer Advisory as necessary 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Maintain and update Short Sale Seller Advisory as necessary 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Maintain and update legal, risk management, fair housing, and international real estate content on AAR website as necessary 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Update written publications as necessary 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Promote use of Legal & Industry Publications 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Form workgroup to consider more effective dissemination of risk management information 	<ul style="list-style-type: none"> • On-going

Legal and Legislative Outreach and Education This program includes:

- Speaking/teaching at local associations and member firms on legal issues and new legislation.
- Program participant in legal components of Winter Conference, Broker University, Partners Conference, Leadership Conference, educational outreach and other association programs.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• Participation in legal and legislative programs	<ul style="list-style-type: none">• 19 completed in the 1st Quarter

Legislative Support This program includes:

- Provide input on industry issues
- Assist AAR lobbyist in drafting legislation
- Promote laws that reduce member liability
- Testify at the legislature as needed on legislative issues
- Inform members of legislative issues and changes in conjunction with the Legislative and Political Affairs Committee.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• Successful outcome in legislation supported and successful defeat of legislation opposed	<ul style="list-style-type: none">• On-going

REGULATORY ISSUES This plan includes:

- Communicate with ADRE and other administrative agencies such as ADEQ, ADWR, DFI, and BTR on regulatory issues
- Review and make recommendations on proposed administrative rules or policy changes
- Serve on ADRE or other state agency committees, when available and appropriate
- Assist AAR CEO and lobbyist in drafting and testifying on proposed rules

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• Negotiation of reasonable regulatory rules and policies that are acceptable to AAR members and do not hinder their success	<ul style="list-style-type: none">• Meetings with the Arizona Bankers Assoc. regarding anti-deficiency statutes
<ul style="list-style-type: none">• Maintain contact with ADRE Advisory Board	<ul style="list-style-type: none">• Met February 19, 2014
<ul style="list-style-type: none">• Establish a regulatory agency work group	<ul style="list-style-type: none">• Met November 21, 2013

General Programs

Support This program includes support programs, including:

- Continuing education
- State and County Bar dues
- Resource subscriptions
- Staff attendance at legal, legislative and industry meetings
- Copying and postage

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• All tasks assigned by the Committee are completed, updates and information provided to members after Professional Standards, continuing legal education class or industry meetings. General printing/postage/supply funds provide the tools to accomplish the Area's PPSA's	<ul style="list-style-type: none">• On-going

Related activities without direct Committee oversight

Legal Counsel

- Provide guidance to leadership and CEO on association legal concerns
- Review and advise on building/tenant issues and related contracts
- Review and advise on affinity agreements
- Prepare memoranda on legal issues as they arise
- Provide limited advice and guidance to local associations
- Respond to member inquires as appropriate

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• CEO, state leadership, committees, and local association executives are informed on legal issues and questions satisfactorily answered.	<ul style="list-style-type: none">• On-going

Litigation Support Related activities without direct committee oversight:

- Draft Amicus Briefs and monitor litigation and potential litigation or disputes in which AAR has an interest
- Legal research and evaluation of claims or issues
- Preparation of pleadings, memos and correspondence relating to claims or issues
- Coordinate with outside counsel in the representation of AAR on any claims or issues

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• Successful outcome in litigation and dispute resolution.	