

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

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

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

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

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

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

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

**Industry Issues** This program involves addressing current industry issues.

**Measurable Goals:**

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

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

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

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

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

**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"><li>• 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</li></ul>	<ul style="list-style-type: none"><li>• On-going</li></ul>

## 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:**

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

### 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:**

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