

AAR Risk Management Committee 2016 Business Plan

FROM: Risk Management Committee (RMC)
Chairman: Gerry Russell
Vice Chairman: Evan Fuchs
RMC Liaison: Scott M. Drucker
DATE: January 13, 2016

REALTOR®... the best prepared real estate professional with the highest standards.

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

CURRENT TOP PRIORITIES

- **Continue Grievance Committee and Professional Standards support**
 - Maintain and enhance Ethics hearing and Arbitration hearing process
 - Quarterly Professional Standards Newsletter, 9/25/15
- **Enhance dispute resolution services**
 - Administer the Buyer/Seller Dispute Resolution Program
 - Administer the Mediation and Ombudsman Programs
 - Professional Standards Workshop on 2/2/2016
 - Professional Standards Policy & Training Workgroup met on 2/19/15
- **Forms**
 - Revised existing forms to ensure compliance with October 2015 RESPA-TILA rules
- **Legal Hotline Support**
 - Continue promotion efforts
 - Survey sent 8/4/15
 - Legal Hotline Workgroup
- **Regulatory Issues**
 - Continue to work with ADRE
 - Attend ADRE Advisory Board meetings - met on 12/2/15
 - ADRE Partner's meeting – met on 8/25/15 and 11/3/15
- **Risk management education and information**
 - AZ REALTOR® Voice articles
 - AAR Website articles and blogs
 - Scams & Frauds, Short Sale
 - Arizona Broker/Manager Quarterly, 12/1/15
 - Advisories, Revised Lease Owners and Buyer Advisory

RECOMMENDATIONS

- Approve revisions to: (1) AAR's Ethics and Arbitration Chair Guides; and (2) AAR's Adaptations to the Code of Ethics and Arbitration Manual.
- Approve for release in February 2016 a revised Property Management Agreement.
- Approve for release in February 2016 a revised Pre-Qualification Form.
- Addition of revised Critical Date List to all platforms authorized to license AAR forms.

- Approve for release to all Arizona RELATOR® brokers non-branded, non-copyrighted standard pre- and post-possession agreements

PROFESSIONAL STANDARDS

Professional Standards Administration

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
- **Mediation Program**
- **Ombudsman Program**

Measurable objectives	Status
<ul style="list-style-type: none"> • GVC: Prompt review of complaints 	<ul style="list-style-type: none"> • 3rd Quarter 2015 Filings Ethics = 23 Arbitration = 4
<ul style="list-style-type: none"> • PSC: Complete ethics cases promptly 	<ul style="list-style-type: none"> • 3rd Quarter 2015 Ethics Held = 5
<ul style="list-style-type: none"> • PSC: Complete arbitrations promptly 	<ul style="list-style-type: none"> • 3rd Quarter 2015 Arbitrations Held = 0
<ul style="list-style-type: none"> • Update PS policy adaptations as necessary 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Reinforce, on a continuing basis, AAR PS benefits and results 	<ul style="list-style-type: none"> • On-going

Mediation Program

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

Measurable objectives	Status
<ul style="list-style-type: none"> • Facilitate mediation requests on a timely basis 	<ul style="list-style-type: none"> • 3rd Quarter 2015 Mediations Filed = 20 Held = 6
<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"> • 19 Mediators for 2015
<ul style="list-style-type: none"> • Update mediation policies and procedures as necessary 	<ul style="list-style-type: none"> • Policy Workgroup met on 2/19/15

Ombudsman Program

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

Measurable objectives	Status
<ul style="list-style-type: none"> • Facilitate ombudsman requests on a timely basis 	<ul style="list-style-type: none"> • 3rd Quarter 2015 Ombudsmen requests: Filed = 16 Out of scope = 9 Unsuccessful = 1 Successful = 6

<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"> • 16 Ombudsmen for 2015
<ul style="list-style-type: none"> • Update PS policy adaptations as necessary 	<ul style="list-style-type: none"> • Policy Workgroup met on 2/19/15

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 objectives	Status
<ul style="list-style-type: none"> • Offer PS Training for GVC and PS Committee 	<ul style="list-style-type: none"> • Professional Standards Workshop Training – February 2, 2016
<ul style="list-style-type: none"> • PS Policy & Training Workgroup meeting 	<ul style="list-style-type: none"> • February 19, 2015
<ul style="list-style-type: none"> • Offer Mediator training 	<ul style="list-style-type: none"> • October 22, 2015
<ul style="list-style-type: none"> • Offer Ombudsman training 	<ul style="list-style-type: none"> • SEVRAR – November 5, 2015 • AAR – October 22, 2015
<ul style="list-style-type: none"> • Offer hearing panel chair training 	<ul style="list-style-type: none"> • June 17, 2015
<ul style="list-style-type: none"> • Publish PS, Mediation and Ombudsman information 	<ul style="list-style-type: none"> • Quarterly Newsletter – September 25, 2015
<ul style="list-style-type: none"> • PS outreach to members 	<ul style="list-style-type: none"> • On-going

Buyer-Seller Dispute Resolution

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 objectives	Status
<ul style="list-style-type: none"> • Offer an effective Buyer-Seller Dispute Resolution program 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Recruit effective Buyer-Seller Dispute Resolution providers 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Ensure compliance of Buyer-Seller Dispute providers with program's directives 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Receive positive feedback from Buyer-Seller Dispute Resolution program evaluations 	<ul style="list-style-type: none"> • On-going

RISK MANAGEMENT

Forms Development

This program involves:

Creation of workgroups

Drafting - Draft new forms as needed and revise current forms

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

Measurable objectives	Status
<ul style="list-style-type: none"> • Workgroups formed as necessary 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Protect our forms copyright 	<ul style="list-style-type: none"> • On-going

<ul style="list-style-type: none"> Forms drafted or revised for introduction in February, June and October 2015 	<ul style="list-style-type: none"> H.O.A. Condominium/Planned Community Addendum 2/15 Pre-Qualification Form 9/15 Loan Status Update 10/15 Residential Purchase Contract 9/15 Vacant Land/Lot Purchase Contract 10/15
<ul style="list-style-type: none"> Deliver timely forms information/education 	<ul style="list-style-type: none"> Post articles on aarononline.com, AAR blog and AZR Voice Maintain Short Sale webpage Maintain Scams and Frauds webpage HOA Webinar 1/28/15 Flood Insurance Webinar 5/5/15 TRID Forms Webinars 8/26/15, 10/20/15 & 11/17/15
<ul style="list-style-type: none"> Develop educational kit for teams on best practices and guidelines 	<ul style="list-style-type: none"> Not yet started
<ul style="list-style-type: none"> Develop a customizable broker tool kit for management of teams 	<ul style="list-style-type: none"> Not yet started
<ul style="list-style-type: none"> Create and promote a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system. 	<ul style="list-style-type: none"> Completed

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 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® Voice 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"> Completed 8/14/15
<ul style="list-style-type: none"> Form Hotline Workgroup to evaluate program 	<ul style="list-style-type: none"> Completed

Industry Issues

This program involves addressing current industry issues.

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"> Broker claims survey completed on 11/13/15
<ul style="list-style-type: none"> Foster alliances with defense attorneys and E&O carriers and mediators 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Monitor medical marijuana legal conflicts and keep members informed as the issue evolves 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Educate agents on potential ethical and legal liabilities associated with off-market listings and private listing clubs 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Increase promotion and education of RESPA-TILA changes; respond to changes and monitor 	<ul style="list-style-type: none"> On-going

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*
- AZ Broker/Manager Quarterly
- Buyer Advisory
- Short Sale Seller Advisory
- Lease Owner's Advisory
- Tenant Advisory
- Legal information and risk management information on website (Short Sales blog, Scams & Frauds webpage)
- Spanish translations
- Risk Management brochures

Measurable objectives	Status
<ul style="list-style-type: none"> Distribution of time sensitive legal and risk management information and articles 	<p>Articles published on:</p> <ul style="list-style-type: none"> Private Mortgage Insurance Broker Claims Survey PACE Financing E&O Insurance for Do Not Call List Violations AAR Copyright Protection HOA Addendum Proper Use Reminder Solar Lease Disclosure
<ul style="list-style-type: none"> Deliver Arizona Broker/Manager Quarterly 	<ul style="list-style-type: none"> 4th Qtr BMQ – 12/1/15
<ul style="list-style-type: none"> Maintain advisories as necessary : Buyer Advisory, Short Sale Seller Advisory, Lease Owners Advisory, Tenant Advisory 	<p>Revisions: All four being reformatted and revised. Posted</p>

	on AAR website. Will go in zipForm in March 2016.
<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"> Promote and continue to develop resources that assist brokers in operating a brokerage that is of value to the public, agents, and the real estate industry (i.e. risk management, legal hotline, etc.). 	<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 objectives	Status
<ul style="list-style-type: none"> Participation in legal and legislative programs 	<ul style="list-style-type: none"> On-going

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 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"> Advise on HB 2578 regarding construction defect litigation Advise on potential Independent Contractor legislation Attended Sen. Farnsworth TRID Discussion Meeting 6/3/15

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 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"> Submitted letter to State Bar regarding proposed unauthorized practice of law rule change on 4/28/15 Attended ADEQ Listening Session 7/7/15 Attended ADRE Partner's Meeting 8/25/15 and 11/3/15
<ul style="list-style-type: none"> Maintain contact with ADRE Advisory Board 	<ul style="list-style-type: none"> Met on 12/2/15
<ul style="list-style-type: none"> Establish a regulatory agency workgroup 	<ul style="list-style-type: none"> Completed

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