

Taking a Stand in Canada

BY JIM FISH



Late last spring, agent Rod LaRocque was content being an Allstate agent in Canada. After all, he was one of Allstate's most prolific producers. In addition to being the number one group writer in Canada, he had earned over 50 company awards during his remarkable career. These awards included 18 National Champion Conferences, three President's Performance Awards, Life Millionaire, Gold Pen and the Provincial Profitability Award, just to name a few. He was a model agent with a stellar career who embodied the qualities that managers sought to instill in all agents. In addition, he was proud to be an Allstate agent. In his words, "I took great pride in my relationship and bled Allstate blue."

Now, sitting at his desk in his office on Ontario Street in Sudbury, Ontario, LaRocque is still hard at work doing the same things he has done for more than 20 years – selling insurance. But today he works as a broker, selling policies for several companies. Strange as it may seem, becoming a broker was not in his plans six months ago. His plan was to continue selling Allstate products until the day he retired. Last July, however,

Allstate turned his world upside down when it announced its intention to fundamentally change its Canadian business model. This unwelcome model upends traditional agent compensation agreements by eliminating renewal commissions.

As you would expect, the loss of renewal compensation did not sit well with the agency force. Even so, LaRocque initially planned to transition to the new model. But after carefully reviewing his options, he changed his mind, opting to become a broker instead. Continuing on as an Allstate agent would have entailed that he, along with agents from other offices, move to a new company owned office. In his former market, the company's plan is to reduce the number of agencies from seven to just two. This, of course, means that agents from seven locations would be squeezed into two offices. At first glance, this may not seem too dreadful until you consider the fact that there are many multi-agent locations in Canada, some housing as many as three Allstate agents. Therefore, in addition to losing significant renewal income, he would have been required to work in a team environment that could only be successful if each agent on the team pulled his/her own weight. But even with a good team of agents working together, it would be virtually impossible for agents like LaRocque to earn anywhere near the kind of money they made before the change.

Allstate's new business model has been a bitter pill for most agents to swallow, especially since, for years, managers at every level encouraged agents to invest their own money to develop their agencies. In LaRocque's words, "we were told, right from day one, we were going to be entrepreneurs and this was our own business. Personally, I invested hundreds

of thousands of dollars and, to this date, continue to service some of this debt!"

After devoting nearly 22 years of his life to a company he deeply cared for, it was tough to walk away. For many agents, just losing their renewal income or being uprooted and moved to a new work environment would be sufficient enough reason. But for LaRocque it was more than that. He had given Allstate all he was capable of giving throughout his career. To him, it was wrong for Allstate to make such a monumental decision without initiating a dialog with the agency force, especially in light of more than four years of substantial profits in Canada. Troubled and frustrated, he sought legal options before making his decision to leave. "Prior to leaving Allstate, I secured five legal opinions on what transpired and their proposed new model. Every opinion was definitive. We [the agents] were all being 'constructively dismissed'."

So, what is constructive dismissal? According to Part III, Divisions X, XI and XIV of the Canada Labour Code, "The phrase 'constructive dismissal' describes situations where the employer has not directly fired the employee. Rather the employer has failed to comply with the contract of employment in a major respect, unilaterally changed the terms of employment or expressed a settled intention to do either thus forcing the employee to quit. Constructive dismissal is sometimes called "disguised dismissal" or "quitting with cause" because it often occurs in situations where the employee is offered the alternative of leaving or of submitting to a unilateral and substantial alteration of a fundamental term or condition of his/her employment."

Soon, agents throughout Canada became familiar with the "constructive dismissal" terminology and it became the

battle cry for legal action.

Adding to his frustration was the fact that Pembridge, a subsidiary of Allstate, competes head to head with Allstate agents. It is sold through brokers, similar to the Encompass brand here in the U.S. According to LaRocque, “the company [Allstate] is not meeting its growth objectives because it is being cannibalized by the lower rates of its own subsidiary. On the surface, this appears to be a deliberate effort to ‘buy the business’ in order to establish a bigger footprint in the independent broker market. This practice has hurt Allstate agents because their customers are switching to Pembridge – and what does that accomplish for Allstate agents or the corporation?”

In spite of the apparent channel conflict between the independent brokers and captive Allstate agents, Bob Tisdale, president and CEO at Pembridge, stated, in an article in the December 2005 issue of *Canadian Underwriter*, that “It is imperative to preserve the integrity and clarity of the distribution channels that insurers use to sell products and services. The industry should resist blurring the lines between brokers, agents and direct methods of distribution.”

Being a pragmatist, LaRocque concluded that there was no future for him at Allstate. The trust was gone, the decency was gone and the income from the renewal book was gone – hardly a recipe for a successful relationship or career. Changing careers, however, posed some major challenges. Most significantly was the problem of maintaining his standard of living. Although still under 50, the probability of starting over in a different industry was not a viable option. What industry could offer him the same income potential? And then there is the learning curve. How long would it take to get up to speed in a new industry? In the end, LaRocque decided that he would stay in the insurance business. After all, it was an occupation in which he excelled and that he liked. Furthermore he reasoned that, if it came down to a court battle, he was confident he would prevail under the “constructive dismissal” provision of Canada’s Labour Code which could make the non-compete clause irrelevant. Besides, throughout the decision making process

there was never any thought of soliciting his Allstate book of business – in his mind, it wasn’t the right thing to do.

On August 31, 2007, he submitted his resignation letter to Northern Ontario Regional Manager Dan Currie. In order to make sure his customers would be taken care of and that Allstate’s interests would be protected, his letter included the following statements:

- “I agreed to place a voice message on my phone number advising clients that I am no longer with the company and they can contact the 800# or alternative number as assigned by you.”
- “We will post a sign on the front door advising the same and will make arrangements to have the Allstate signage removed from the building.”
- “I will arrange to transfer Allstate files, computer and furniture at a mutual date and time preferably within 14 days of our meeting.”

In addition to his letter, which signaled his intention to cooperate in the process to transfer his book back to the company and direct customers appropriately, he was also in communication with members of company management, including Mike Donoghue, Allstate Canada President and CEO.

Despite all his efforts to act in good faith, they did not change Allstate’s response. It was only a matter of weeks when Allstate brought a \$4,500,000 lawsuit against him for violating the non-compete provision of his contract and for setting up a brokerage at his former NOA location. While the amount is staggering, LaRocque was otherwise not surprised. “I expected them to attempt to make an example of me,” he says. In response to the suit, his attorneys have countersued for wrongful dismissal. While no one can say what the outcome of these suits will be, the hope is that the matter can be resolved between the attorneys from both sides.

No matter what, LaRocque plans to move forward with his life and his new agency. It is his contention that he and the rest of the Canadian agency force were “constructively dismissed.” Among other things, Allstate announced it was eliminating renewal compensation and is compelling agents to move from their

NOA offices to highly controlled work environments where they will be required to perpetually produce substantial amounts of new business in order to earn far less than they did before. Under these extreme and extraordinary circumstances, he feels the courts will agree that he should have the right to earn a living selling insurance. Being both entrepreneurial and aggressive, LaRocque is confident that his new agency will thrive in spite of the obstacles that stand in his way. And those who know him firmly agree that he will continue the success he’s enjoyed for most of his career. As he says, “At the end of the day it [the litigation] has changed nothing as we continue to operate our brokerage. We are quite confident we are doing the right thing because it is the right thing to do.”

Judging by the letters and comments we’ve received from agents in Canada, there can be no doubt that they are angry, disillusioned and frustrated, but LaRocque seems to view things a bit differently. He has grabbed the bull by the horns and is moving on. He is focused on the future and, my guess is, that he won’t look back.

I’ll leave you with LaRocque’s closing remarks, “People need to believe and follow the right guiding principles. Allstate has made a fortune from my efforts and the efforts of others. When you think of it, Allstate took a whole nation of agents and cast us aside like so much rubbish, all in the name of the almighty dollar. This is not right. The buck stopped with me. I do not fear Allstate! They decided to make a national example out of me because I dared to push back. Back in the day when I was a Search and Rescue pilot we used to say ‘I’m just one person and hopefully my efforts pave the way so that others may live...’ This is my belief and where I must take my stand.”

To contribute to Rod LaRocque’s legal fight, please make your check or money order payable to: “Ball and Alexander in Trust” and send it to the following address: Mr. Rod LaRocque, Local Insurance Brokers, 471 Ontario Street, Sudbury, Ontario P3E4K4, Canada. To send your letter First-Class Mail® International, the postage is \$0.69 – Your support is appreciated.