

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION**

PAUL WASGATT,
Plaintiff,

v.

ALLSTATE INSURANCE COMPANY and
GLENN T. SHAPIRO,

Defendants.

Civil Action No. 4:20-cv-40118

**DEFENDANTS ALLSTATE INSURANCE COMPANY AND GLENN T. SHAPIRO'S
ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND
COUNTERCLAIM OF DEFENDANT ALLSTATE INSURANCE COMPANY**

Defendants Allstate Insurance Company (“Allstate”) and Glenn T. Shapiro (“Mr. Shapiro”) (collectively, “Defendants”) hereby answer each of the paragraphs of the First Amended Complaint as set forth below. Any allegation in the Complaint that is not expressly admitted is denied.

PREFATORY ALLEGATIONS

1. Defendants lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 1 and therefore deny them.
2. Defendants admit the allegations in paragraph 2.
3. Defendants admit that Mr. Shapiro is the President, Allstate Personal Insurance, Esurance, Encompass, Answer Financial. Defendants deny the remaining allegations in paragraph 3.

4. This paragraph sets forth legal conclusions and questions of law to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 4.

5. This paragraph does not contain any allegations of fact, therefore no response is required.

BACKGROUND

6. Defendants deny the allegations in paragraph 6.

7. Defendants deny the allegations in paragraph 7.

8. Defendants admit that Allstate required Plaintiff to comply with Allstate's policies and procedures with respect to the writing of insurance and submission of prospective policyholders. Allstate tracked the results of Plaintiff's agency. Defendants deny the remaining allegations in paragraph 8.

9. Defendants admit Mr. Shapiro served as Executive Vice President, Claims at Allstate from April 2016 through December 2017, and as President of Allstate Personal Lines from January 2018 through January 2020. Defendants admit Mr. Shapiro has served as President, Allstate Personal Insurance, Esurance, Encompass, Answer Financial, since January 2020. Defendants deny the remaining allegations in paragraph 9.

10. Defendants deny the allegations in paragraph 10.

11. Defendants deny the allegations in paragraph 11.

12. Defendants deny the allegations in paragraph 12.

13. Defendants admit Mr. Shapiro was the Chief Claims Officer & EVP – Commercial Insurance at Liberty Mutual Group, Inc., headquartered in Boston, Massachusetts. Defendants deny the remaining allegations in paragraph 13.

14. Defendants deny the allegations in paragraph 14.

15. Defendants deny the allegations in paragraph 15.

16. Defendants deny the allegations in paragraph 16.

17. Defendants lack sufficient information to admit or deny the allegations in paragraph 17 and therefore deny them.

18. Defendants admit Allstate previously marketed and sold policies through Neighborhood Office Agents. Defendants further admit that Allstate insurance policies also are bound through call centers personnel. Defendants deny the remaining allegations in paragraph 18.

19. Defendants deny the allegations in paragraph 19.

20. Defendants admit that Allstate employs representatives in call centers.

Defendants deny the remaining allegations in paragraph 20.

21. This paragraph sets forth legal conclusions and questions of law to which no response is required. To the extent a response is required, the Massachusetts statute speaks for itself. Defendants deny the remaining allegations in paragraph 21.

22. Defendants deny the allegations in paragraph 22.

23. Defendants admit that Plaintiff was authorized to promote and sell Allstate insurance products and services, or products and services of other carriers approved by Allstate, but denies the remaining allegations in paragraph 23.

24. Defendants deny the allegations in paragraph 24.

25. Defendants deny the allegations in paragraph 25.

26. Defendants deny the allegations in paragraph 26.

27. Defendants deny the allegations in paragraph 27.

28. Defendants deny the allegations in paragraph 28.

29. Defendants admit that Plaintiff was an agent of Allstate and was limited to promoting and selling Allstate products and products that Allstate authorized his agency to promote and sell. Defendants deny the remaining allegations in paragraph 29.

30. Defendants admit that Plaintiff was required to comply with the terms of his written agreement with Allstate. Defendants deny the remaining allegations in paragraph 30.

31. Defendants admit that some Allstate agents begin their careers in the insurance field with Allstate. Defendants deny the remaining allegations in paragraph 31.

32. Defendants admit Plaintiff filed complaints about Allstate with the Massachusetts Department of Insurance. Defendants deny the remaining allegations in paragraph 32.

33. Defendants admit Plaintiff filed complaints about Allstate with the Massachusetts Department of Insurance. Defendants deny the remaining allegations in paragraph 33.

34. Defendants deny the allegations in paragraph 34.

35. Defendants admit that Plaintiff made complaints to representatives of Allstate. Defendants deny the remaining allegations in paragraph 35.

36. Defendants deny the allegations in paragraph 36.

37. Defendants deny the allegations in paragraph 37.

38. Defendants admit Plaintiff made complaints to representatives of Allstate and the Department of Insurance. Defendants deny the remaining allegations in paragraph 38.

39. Defendants admit Plaintiff filed complaints about Allstate with the Massachusetts Department of Insurance. Defendants deny the remaining allegations in paragraph 39.

40. Defendants deny the allegations in paragraph 40.

41. Defendants deny the allegations in paragraph 41.

42. Defendants admit that Plaintiff was eligible for a termination payment under the terms and conditions specified in the written agreement Plaintiff entered into with Allstate.

Defendants deny all other allegations in paragraph 42.

43. Defendants admit the termination payment was referenced in Plaintiff's termination letter. Defendants deny the remaining allegations in paragraph 43.

44. Defendants admit Plaintiff was sent a spreadsheet with the calculations of a potential termination payment, as specified in the terms and conditions of Plaintiff's written agreement with Allstate. Defendants deny the remaining allegations in paragraph 44.

45. Defendants deny the allegations in paragraph 45.

CAUSES OF ACTION

FIRST CAUSE OF ACTION: **MISCLASSIFICATION AS AN INDEPENDENT CONTRACTOR**

46. Defendants re-allege their answers to paragraphs 1 through 45, inclusive.

47. To the extent that paragraph 47 contains an allegation of law and not of fact, Defendants are under no obligation to respond to such allegations. If a response is required, Defendants lack knowledge and information sufficient to form a belief as to the truth of the remaining allegations in paragraph 47 and therefore deny them.

48. Defendants lack knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 48 and therefore deny them.

49. To the extent that paragraph 49 contains an allegation of law and not of fact, Defendants are under no obligation to respond to such allegations. If a response is required, Defendants deny any and all allegations in paragraph 49 that suggest or imply that Defendants have violated M.G.L. c. 149 § 148B or that such provision applies to them.

50. To the extent that paragraph 50 contains an allegation of law and not of fact, Defendants are under no obligation to respond to such allegations. If a response is required, Defendants deny any and all allegation in paragraph 50 that suggest or imply that Defendants have violated M.G.L. c. 149 § 148B or that such provision applies to them.

51. To the extent that paragraph 51 contains an allegation of law and not of fact, Defendants are under no obligation to respond to such allegations. If a response is required, Defendants deny the allegations in paragraph 51.

52. Defendants admit that Allstate maintains representatives in call centers. Defendants deny the remaining allegations in paragraph 52.

53. Defendants deny the allegations in paragraph 53.

54. Defendants admit that Allstate maintains representatives in call centers. Allstate denies the remaining allegations in paragraph 54.

55. Defendants deny the allegations in paragraph 55.

56. Defendants admit Plaintiff acted as an agent for the purpose of soliciting, selling, and servicing insurance and other company business in accordance with the provisions of Plaintiff's written agreement with Allstate. Defendants deny the remaining allegations in paragraph 56.

57. Defendants deny the allegations in paragraph 57.

58. Defendants admit that most of Allstate insurance products in the Commonwealth of Massachusetts are sold through Exclusive Agencies, and that some are sold through call center representatives. Defendants deny the remaining allegations in paragraph 58.

59. Defendants deny the allegations in paragraph 59.

60. Defendants deny the allegations in paragraph 60.

61. Defendants deny the allegations in paragraph 61.

62. Defendants admit that Plaintiff was required to maintain insurance, meet certain business objectives, and comply with the terms of his written agreement with Allstate.

Defendants deny the remaining allegations in paragraph 62.

63. Defendants admit that Plaintiff was permitted to market and sell products approved by Allstate. Defendants deny the remaining allegations in paragraph 63.

64. Defendants admit that Plaintiff was permitted to market and sell products approved by Allstate. Defendants deny the remaining allegations in paragraph 64.

65. Defendants deny the first sentence in paragraph 65. Defendants lack sufficient information to admit or deny the second sentence of paragraph 65 and therefore deny it.

66. Defendants deny the allegations in paragraph 66.

67. Defendants deny the allegations in paragraph 67.

68. Defendants admit that Allstate determined which risks it would insure and what the terms and conditions of such policies were. Defendants further admit that Plaintiff did not have authority to change the terms of Allstate insurance policies. Defendants deny the remaining allegations in paragraph 68.

69. Defendants deny the allegations in paragraph 69.

70. Defendants deny the allegations in paragraph 70.

71. Defendants deny the allegations in paragraph 71.

72. Defendants deny the allegations in paragraph 72.

73. Defendants deny the allegations in paragraph 73.

74. Defendants deny the allegations in paragraph 74.

75. Defendants admit that the Plaintiff contracted with Allstate to sell and service insurance policies to Allstate customers. Defendants deny the remaining allegations in paragraph 75.

76. Defendants admit that Allstate previously distributed insurance through Neighborhood Office Agents. Defendants further admit that Allstate insurance policies also are distributed through call center personnel. Defendants deny the remaining allegations in paragraph 76.

77. Defendants admit that Plaintiff was required to comply with the terms of his written agreement with Allstate. Defendants deny the remaining allegations in paragraph 77.

78. Defendants deny the allegations in paragraph 78.

79. Defendants admit that Plaintiff was required to comply with the terms of his written agreement with Allstate and that he could not hold himself out as an independent insurance agent capable of selling the insurance products of multiple carriers. Defendants deny the remaining allegations in paragraph 79.

80. Defendants deny the allegations in paragraph 80.

81. Defendants admit that Plaintiff agreed in his written agreement that Allstate owned the telephone number Plaintiff used in his agency and the files of Allstate customers that Plaintiff serviced. Defendants deny the remaining allegations in paragraph 81.

82. Defendants deny that Plaintiff is entitled to the relief sought in paragraph 82 and deny any other allegations in paragraph 82.

83. Defendants deny that Plaintiff is entitled to damages.

SECOND CAUSE OF ACTION:
TERMINATION OF PLAINTIFF IN VIOLATION OF PUBLIC POLICY

84. Defendants re-allege their answers to paragraphs 1 through 83, inclusive.

85. Defendants deny the allegations in paragraph 85.

86. Defendants deny the allegations in paragraph 86.

87. Defendants deny the allegations in paragraph 87.

88. Defendants admit Plaintiff made complaints to Allstate representatives.

Defendants deny all remaining allegations in paragraph 88.

89. Defendants deny the allegations in paragraph 89.

90. Defendants admit Plaintiff filed complaints about Allstate with the Massachusetts Department of Insurance. Defendants deny the remaining allegations in paragraph 90.

91. Defendants deny the allegations in paragraph 91.

92. Defendants deny the allegations in paragraph 92.

THIRD CAUSE OF ACTION:
BREACH OF CONTRACT FOR FAILURE TO PAY PLAINTIFF HIS TERMINATION
PAYMENT

93. Defendants re-allege their answers for paragraphs 1 through 92, inclusive.

94. Defendants admit Plaintiff was eligible for a termination payment under the terms and conditions specified in the written agreement Plaintiff entered into with Allstate. Defendants deny the remaining allegations in paragraph 94.

95. Defendants deny the allegations in paragraph 95.

96. Defendants deny the allegations in paragraph 96.

97. Defendants deny the allegations in paragraph 97.

98. Defendants deny the allegations in paragraph 98.

99. Defendants deny the allegations in paragraph 99.

100. Defendants deny the allegations in paragraph 100.

PLAINTIFF'S PRAYER FOR RELIEF

Defendants admit that Plaintiff seeks the damages and relief requested in this section, but deny Plaintiff is entitled to such relief.

AFFIRMATIVE AND OTHER DEFENSES

As for separate defenses to the Complaint, and without conceding that Defendants have the burden of proof or persuasion as to any of them except as required by applicable law, Defendants state as follows:

FIRST DEFENSE

Plaintiff cannot establish that he was an employee of Allstate. Plaintiff was properly classified as an independent contractor, as Plaintiff was free from control and direction in connection with the performance of his service, both under the Agreement and the service in fact; Plaintiff performed service outside the usual course of Allstate's business; and Plaintiff was customarily engaged in an independently established trade, occupation, profession or business of the same nature that involved the service performed.

SECOND DEFENSE

Plaintiff has failed to exhaust administrative remedies pursuant to Chapter 149, section 150 of the Massachusetts General Laws.

THIRD DEFENSE

Plaintiff's claim under Chapter 149, section 148B of the Massachusetts General Laws is barred, in part, by the applicable statute of limitations.

FOURTH DEFENSE

Chapter 149, section 148B of the Massachusetts General Laws do not apply to insurance agency relationships governed by insurance regulations.

FIFTH DEFENSE

Plaintiff's claims are preempted in whole or in part by the insurance regulations of Massachusetts.

SIXTH DEFENSE

Mr. Shapiro is not a proper party under Chapter 149, section 148B of the Massachusetts General Laws.

SEVENTH DEFENSE

Plaintiff's Exclusive Agency Agreement was terminated for legitimate, non-retaliatory reasons.

EIGHTH DEFENSE

Plaintiff engaged in a material breach of the Allstate Exclusive Agency Agreement on which he bases his breach of contract claim, thereby excusing any non-performance by Allstate.

NINTH DEFENSE

Any damages awarded to Plaintiff should be reduced and/or set off against any amounts owed by Plaintiff to Defendant Allstate due to Plaintiff's breaches of the Allstate Exclusive Agency Agreement.

TENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, as he has failed to state a claim upon which relief can be granted.

RESERVATION OF RIGHTS

Defendants reserve the right to assert additional affirmative defenses or defenses of which it becomes knowledgeable during the course of discovery.

WHEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff takes nothing by reason of the Complaint and that the same be dismissed with prejudice on the merits;
2. That judgment be entered for the Defendants;
3. That Defendants recover its costs of suits herein; and
4. That Defendants be granted such further relief as the Court deems just and proper.

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**COUNTERCLAIMS OF DEFENDANT/COUNTERCLAIM PLAINTIFF ALLSTATE
INSURANCE COMPANY, INC.**

Defendant/Counterclaim Plaintiff Allstate Insurance Company, Inc. (“Allstate”) brings these Counterclaims against Plaintiff/Counterclaim Defendant Paul Wasgatt (“Wasgatt”) (together, the “Parties”) and alleges as follows:

PARTIES

1. Allstate is an Illinois insurance company with its principal place of business in Northbrook, Illinois.
2. Upon information and belief, Wasgatt is an individual residing at 23 Fiske Street, Worcester, Massachusetts.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and there is complete diversity of citizenship between the Parties.
4. On the basis of the foregoing allegations and by virtue of Wasgatt’s commencement of this action in Massachusetts, this Court has personal jurisdiction over Wasgatt and this counterclaim.
5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and by virtue of Wasgatt’s commencement of this action in Massachusetts.

FACTUAL BACKGROUND

Wasgatt’s Operation of an Independent Agency in Violation of Promises to Allstate

6. Prior to August 2013, Wasgatt ran an independent insurance agency called “Safeside Insurance” in Worcester, Massachusetts. In that capacity, he sold insurance as a representative of a number of different insurance providers.

7. Effective August 1, 2013, Wasgatt entered into an R3001S Exclusive Agency Agreement (“R3001S Agreement”) with Allstate. The R3001S Agreement is attached to this Counterclaim as Exhibit A.

8. In entering in to the R3001S Agreement, Wasgatt agreed to become an Exclusive Agent of Allstate, operating an exclusive Allstate agency. The R3001S Agreement “authorized [Wasgatt] to sell products specified by the Company and through the companies specified in the Supplement to the R3001S Agreement.”

9. Wasgatt’s R3001S Agreement further provided that he would “not, either directly or indirectly, solicit, sell, or service insurance of any kind for any other company, agent, or broker, or refer a prospect to another company, agent, or broker, without the prior written approval of the Company.”

10. To enable Wasgatt to close down his independent agency, Wasgatt and Allstate entered into an Agency Transition Addendum (“Transition Agreement”). The Transition Agreement was designed to allow Wasgatt to “wind[] down [his] Independent Agency operations in a customer focused manner while at the same time fulfilling all of [his] obligations under the R3001 Exclusive Agency Program.” The Transition Agreement is attached to this Counterclaim as Exhibit B.

11. From August 1, 2013 to October 31, 2014 (the “Transition Period”), Plaintiff was permitted to service business written for other insurance companies prior to August 1, 2013 in order to effectuate the winding down of his independent agency.

12. As part of the Transition Agreement, Wasgatt agreed to maintain separate and distinct operations between his independent agency and his Allstate agency during the Transition

Period in order to avoid customer confusion and to protect the privacy of all data involving current and prospective Allstate customer information.

13. At the end of the Transition Period on October 31, 2014, Wasgatt promised that he would operate exclusively as an Allstate agent, and promote and sell only products authorized by Allstate. Wasgatt agreed he would not operate any other insurance agency.

14. Upon information and belief, in addition to operating his Allstate agency, Wasgatt continued to operate an independent agency after October 31, 2014. Despite his promises to Allstate in the Transition Agreement and the R3001S Agreement, Wasgatt continued to operate an independent agency during the time he was a party to the R3001S Agreement with Allstate.

15. In operating an independent agency after October 31, 2014, Wasgatt sold and serviced insurance policies on behalf of insurance carriers other than Allstate, and not authorized by Allstate, all in violation of the Transition Agreement and the R3001S Agreement.

Wasgatt's Operation of an Allstate Agency as an Independent Contractor

16. During the time that Wasgatt operated an Allstate agency, Wasgatt was an independent contractor. In the R3001S Agreement, Wasgatt agreed that he was an independent contractor for all purposes and that he would act as an agent for Allstate for purposes of soliciting, selling, and servicing insurance and other business as defined within the provisions of the R3001S Agreement.

17. Wasgatt conducted business as an independent contractor while he operated as an Allstate agent under the R3001S Agreement.

18. In doing so, save for measures required principally by insurance regulation, Wasgatt operated free from direction or control over the work he performed. In particular, Wasgatt was free to hire staff. He determined whom he would hire, what compensation he

would pay to them, and what duties and responsibilities he would assign to them. Wasgatt remained free to decide when, how, and in what capacity he would work, and whether he would perform particular tasks or have others do so. Among other things, and within the confines of insurance regulatory requirements, Wasgatt had the right to decide whether, when, and how he would market and promote his agency and the products he elected to sell.

19. The work Wasgatt's agency performed was distinct and separate from, and outside of, Allstate's usual course of business. Allstate is in the business of providing insurance and other financial products and services to individuals and businesses. Wasgatt, like other Exclusive Agents of Allstate, was in the business of promoting and selling insurance policies of Allstate and other carriers Allstate authorized him to handle, as well as financial services products. Wasgatt operated an independent agency selling insurance policies not authorized by Allstate, in violation of his contractual promises to Allstate.

20. Wasgatt was an insurance agent licensed under Massachusetts regulation. During much of the period relevant to this case, Wasgatt also held a Series 6 and Series 7 license under the Financial Industry Regulatory Authority ("FINRA"). As such, Wasgatt was engaged in an independently established trade and profession in which he performed his work.

21. To the extent that Allstate exercised or applied any measures that could ostensibly constitute "control" over Wasgatt's work activities, such measures were the result of Allstate's compliance obligations under applicable insurance regulations or FINRA rules.

Wasgatt's Access to and Misappropriation of Allstate Confidential Information and Property

22. As an Allstate agent, Wasgatt was privy to confidential information relating to Allstate's business. Such confidential information included: business plans of Allstate; information regarding names, addresses, and ages of policyholders of Allstate; types of policies; amounts of insurance; premium amounts; the description and location of insured property; the

expiration or renewal dates of policies; policyholder listings and any policyholder information subject to any privacy law; claim information; information and material identified by Allstate as confidential or information considered a trade secret provided in the R3001S Agreement or by law; and any information concerning any matters affecting or relating to the pursuits of Allstate that are not otherwise lawfully available to the public.

23. Wasgatt acknowledged in the R3001S Agreement that Allstate had a legitimate business interest in protecting such confidential and proprietary information.

24. In Section IV of the R3001S Agreement, Wasgatt agreed that all confidential information was wholly owned by Allstate, and Wasgatt could only use such information for the purposes of carrying out the provisions of the R3001S Agreement.

25. In Section XVIII of the R3001S Agreement, Wasgatt agreed that, upon termination, he would immediately return all property belonging to Allstate, including but not limited to, customer files and other confidential information belonging to Allstate.

26. Wasgatt further agreed that, upon termination, he would not act or represent himself in any way as an agent of Allstate.

27. In Section IX of the R3001S Agreement, Wasgatt agreed that all telephone numbers used in connection with Allstate business are property of Allstate. As provided in Section XVIII of the R3001S Agreement, Wasgatt agreed that, upon termination of the R3001S Agreement, he would cease to use such phone numbers and execute an Order of Transfer of Responsibility to Allstate.

28. Following the termination of his R3001S Agreement, Wasgatt retained, failed to return, and has repeatedly used Allstate's confidential information and property.

Wasgatt's Promise Not to Solicit Allstate Customers
Following the Termination of his R3001S Agreement

29. In Section XVIII.D of the R3001S Agreement, Wasgatt agreed that, for a period of one year following the termination of the R3001S Agreement, he would not solicit the purchase of products or services in competition with those sold by Allstate:

- With respect to any person, company or organization to whom Wasgatt or anyone acting on his behalf sold insurance or other products or services on behalf of Allstate and who was a customer of Allstate when the R3001S Agreement was terminated;
- With respect to any person, company or organization who was a customer of Allstate when the R3001S Agreement was terminated and whose identity was discovered as a result of his status as an Exclusive Agent or as a result of having access to Allstate confidential information; or
- From any office or business located within one (1) mile of any agency sales location Wasgatt maintained while an Exclusive Agent.

30. Wasgatt agreed that a breach of any of his obligations upon termination would cause irreparable damage to Allstate, and that such obligations were necessary to protect the legitimate business interests of Allstate.

31. Following the termination of his R3001S Agreement, in violation of the terms of the solicitation restrictions in that Agreement, Wasgatt repeatedly solicited Allstate customers.

COUNTERCLAIMS

FIRST COUNTERCLAIM

(Breach of Contract for Violation of Transition Agreement and R3001S Agreement in Operation of Independent Agency)

32. Allstate hereby repeats and realleges the allegations set forth in the preceding paragraphs as if set forth fully here.

33. After the Transition Period, Wasgatt continued to operate his independent agency, in violation of the Transition Agreement and the R3001S Agreement.

34. Aside from what was permitted in the Transition Agreement, Wasgatt never requested, and he never received, approval from Allstate to operate another insurance agency while he served as an Exclusive Agent for Allstate.

35. By operating two insurance agencies simultaneously, Wasgatt's independent agency was a direct competitor of his Allstate agency, operating out of the same location with the same phone number. Wasgatt was privy to information he could use to undercut Allstate. Such information included contact information, information about the customer's insurance needs, and the price customers were paying or being quoted for insurance coverage.

36. Operating two insurance agencies simultaneously violated both Wasgatt's 3001S Agreement and the Transition Agreement. In fact, the Transition Agreement explicitly required Wasgatt to maintain separate and distinct operations during the Transition Period in order to avoid customer confusion and protect the privacy of all data involving Allstate customer and prospect information.

37. As a result, Wasgatt was able to use his Allstate agency to attract customers and generate business for his independent agency, while failing to protect the privacy of Allstate customer information.

38. Wasgatt's breach of his R3001S Agreement damaged Allstate's goodwill, reputation and legitimate business interests.

39. Allstate is entitled to recover compensatory damages and interest, in an amount to be proven at trial, for Wasgatt's breach of his R3001S Agreement.

40. Allstate is also entitled to recover the attorneys' fees and expenses it incurs as a result of Wasgatt's breach of the R3001S Agreement.

SECOND COUNTERCLAIM
(Breach of Contract)

41. Allstate hereby repeats and realleges the allegations set forth in the preceding paragraphs as if set forth fully here.

42. On May 22, 2019, Allstate terminated the R3001S Agreement with Wasgatt. On June 6, 2019, Allstate advised Wasgatt that the termination was "for cause" due to Wasgatt's violation of the R3001S Agreement.

43. Following termination, Wasgatt failed to comply with the material provisions of the R3001S Agreement. Specifically, Wasgatt violated the R3001S Agreement by retaining and misappropriating Allstate's confidential and proprietary information, by operating an insurance business within one mile from where he previously serviced former Allstate customers, and by failing to transfer his business phone number back to Allstate.

44. Wasgatt was aware and agreed in Section IV of the R3001S Agreement that all confidential information, including customer files, belonged to Allstate and he was only permitted to use such information for purposes of carrying out the provisions of the R3001S Agreement. In direct violation of the R3001S Agreement, Wasgatt refused to return Allstate confidential and proprietary information following termination of the R3001S Agreement.

45. The return of customer files is material to the R3001S Agreement and to Allstate's business. Indeed, it is well recognized in the insurance industry that customer files, which include expiration and policy renewal information, have financial value; expirations are vital to the renewal of business to an insurance company.

46. Despite his promise in Section XVIII of the R3001S Agreement that he would not act or represent himself in any way as an agent of Allstate following termination, Wasgatt continued to use confidential information belonging to Allstate, such as customer information, to solicit and sell insurance to Allstate customers, both online and at the same location of his agency in which he conducted business pursuant to the R3001S Agreement. Wasgatt affirmatively contacted customers by sending letters in Allstate envelopes, written on Allstate letterhead, long after the R3001S Agreement had been terminated.

47. Furthermore, Wasgatt's actions were in violation of Section XVIII of the R3001S Agreement, in which Wasgatt agreed that, for a period of one year following the termination of the R3001S Agreement, he would not solicit the purchase of products or services in competition with those sold by Allstate.

48. By maintaining an independent agency at 59 Green Street, Worcester, Massachusetts, the same location of his Allstate agency, Wasgatt was in violation of Section XVIII of the R3001S Agreement. Not only was the independent agency within one mile of the agency sales location maintained by Wasgatt as an Allstate agent, his independent agency used the same phone number, was in the same exact location, and was controlled by Wasgatt.

49. In violation of Section IX of the R3001S Agreement, despite multiple requests from Allstate, Wasgatt failed to return the phone number he used to operate his agency pursuant

to his R3001S Agreement, and continues to use the phone number to operate his independent agency.

50. Wasgatt recognized and agreed that breach of any of his obligations upon termination were material and would cause irreparable damage to Allstate.

51. Wasgatt's violation of his R3001S Agreement has caused Allstate to suffer losses, including, but not limited to, the loss of insurance policies and customers, and the costs of defending this lawsuit.

52. Payment of the Termination Payment ("TPP") is contingent upon, among other things, Wasgatt complying with the confidentiality obligations contained in the R3001S Agreement. Following termination of the R3001S Agreement, Wasgatt was mistakenly paid a TPP of \$37,281.03, when he was entitled to nothing.

53. Due to Wasgatt's breaches of the R3001S Agreement, Allstate is entitled to recover the \$37,281.93 TPP payment.

54. Allstate is further entitled to the entry of a declaratory judgment that Wasgatt is owed no TPP payment and that he must return the \$37,281.93 that he was paid in error

55. Allstate is also entitled to recover compensatory damages and interest, in an amount to be proven at trial, for Wasgatt's retention and use of Allstate confidential information.

56. Allstate is also is entitled to recover its attorneys' fees and costs for defending this lawsuit.

THIRD COUNTERCLAIM

(Declaratory Judgment that Wasgatt was an independent contractor under Chapter 149, section 148B of the Massachusetts General Laws ("Massachusetts Independent Contractor Law") or, in the alternative, that the Massachusetts Independent Contractor Law is preempted.)

57. Allstate hereby repeats and realleges the allegations set forth in the preceding paragraphs as if set forth fully herein.

58. Wasgatt was free from the control and direction in connection with the performance of his and his agency's work under the R3001S Agreement.

59. Wasgatt's work under the R3001S Agreement was outside of Allstate's usual course of business.

60. The work Wasgatt and his agency performed was distinct and separate from, and outside of, Allstate's usual course of business of providing insurance and other financial products and services to individuals and businesses..

61. As a licensed insurance agent and the holder of a Series 6 and Series 7 license, Wasgatt was engaged in an independently established trade and profession in which he performed his work.

62. Accordingly, Allstate is entitled to the entry of a declaratory judgment that, at all relevant times, Wasgatt was an independent contractor under Chapter 149, section 148B of the Massachusetts General Laws.

63. In the alternative, there exists an irreconcilable conflict between the requirements of Chapter 149, section 148B of the Massachusetts General Laws, on the one hand, and the Massachusetts insurance law and regulations and the FINRA regulatory requirements on the other hand.

64. The Commonwealth of Massachusetts requires insurance companies, such as Allstate, to be licensed and approved before their products can be sold in the Commonwealth.

65. Insurance agents, including Wasgatt, may not sell, solicit or negotiate insurance in the Commonwealth for any class or classes of insurance unless the agent is licensed for that line of authority. In addition, the insurance agent must become an appointed agent of an insurer before the agent can sell the insurer's products or services.

66. Accordingly, Allstate must ensure it operates in compliance with the applicable laws, including specific provisions relating to coverage, cancellation, and renewal of insurance policies.

67. To the extent it were to be found that Allstate is unable to establish that Wasgatt was free from control or direction in connection with the work he and his agency performed, Allstate is entitled to the entry of a declaratory judgment finding that Chapter 149, section 148B of the Massachusetts General Laws is preempted and inapplicable to Wasgatt's relationship with Allstate.

68. As a result, Allstate is entitled to a declaration precluding Wasgatt from recovery under the Massachusetts Independent Contractor Law.

JURY DEMAND

Allstate hereby requests a trial by jury on all claims triable by jury.

PRAYER FOR RELIEF

WHEREFORE, Allstate prays for judgment as follows:

1. That Wasgatt takes nothing by reason of the Complaint and that the same be dismissed with prejudice on the merits;
2. That judgment be entered for Allstate on all claims herein;
3. That Allstate recovers its costs of suits herein, including attorney's fees; and
4. That Allstate be granted such further relief as the Court deems just and necessary.

Respectfully submitted,

/s/Katherine I. Heise

Richard C. Van Nostrand, BBO #507900
Brian M. Casaceli, BBO #690580
Mirick, O'Connell, DeMallie & Lougee, LLP
1800 West Park Drive | Suite 400 |
Westborough, MA 01581-3926
rvannostrand@mirickoconnell.com
bcasaceli@mirickoconnell.com
Telephone: (508) 860-1453
Facsimile: (508) 207-9347

Robert G. Lian, Jr. (*pro hac vice*)
Katherine I. Heise (*pro hac vice*)
Akin Gump Strauss Hauer & Feld LLP
2001 K Street N.W.
Washington, DC 20006
blian@akingump.com
kheise@akingump.com
Telephone: (202) 887-4000
Facsimile: (202) 887-4288

ATTORNEYS FOR DEFENDANTS
ALLSTATE INSURANCE COMPANY
AND GLENN T. SHAPIRO.

Dated: November 16, 2020

CERTIFICATE OF SERVICE

I, Katherine I. Heise, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 16, 2020.

Dated: November 16, 2020

/s/Katherine I. Heise

Exhibit A

ALLSTATE R3001S EXCLUSIVE AGENCY AGREEMENT

This Agreement is between ALLSTATE INSURANCE COMPANY and such affiliates and subsidiaries as are named in the Supplement for the R3001 Agreement (referred to in this Agreement as "the Company") and Paul Wargott (referred to in this Agreement as "you").

The Company and you agree as follows:

I. **AUTHORITY:**

- A. Effective August 1, 2013, the Company appoints you as its agent to represent the Company in the Exclusive Agency Program. You are authorized on behalf of the Company, during the term of this Agreement, to receive and accept, subject to such restrictions on binding authority as may be established by the Company, applications for insurance covering such classes of risks located in the state(s) of MASS as the Company may from time to time authorize to be written. You are also authorized to sell products specified by the Company and through the companies specified in the Supplement for the R3001 Agreement (referred to in this Agreement as "Company Business"). The Company will own all business produced under the terms of this Agreement. You will not represent yourself as having any authority other than that specifically granted to you by the Company. You will not alter any contract or incur any expense or obligation for the Company without prior written approval from the Company.
- B. This Agreement is the sole and entire agency agreement between the Company and you, and it supersedes and replaces any prior employment, agency, or other agreement between the Company and you. This Agreement also supersedes any prior oral statements and representations by the Company to you and any prior written statements and representations by the Company to you in letters, manuals, booklets, memoranda, or any other format.
- C. The Supplement for the R3001 Agreement ("Supplement") and the Exclusive Agency Independent Contractor Manual ("EA Manual"), and the Allstate Agency Standards ("Agency Standards") as they may be amended from time to time, are expressly incorporated in their entirety as part of this Agreement. The Company reserves the right to amend the Supplement, EA Manual, and Agency Standards at any time without prior notice to you, except that notice regarding changes to commission amounts will be given as indicated in Section XV.
- D. You are an independent contractor for all purposes and not an employee of the Company. You will have full control of your time and the right to exercise independent judgment as to the time, place, and manner of performing your duties, which are defined in this Agreement and the incorporated Supplement, EA Manual, and Agency Standards. You will not represent that you have authority to act on behalf of the Company or enter into any contract on behalf of the Company, except for contracts of insurance or other contracts as expressly authorized by this Agreement.
- E. You will not, either directly or indirectly, solicit, sell, or service insurance of any kind for any other company, agent, or broker, or refer a prospect to another company, agent, or broker, without the prior written approval of the Company. You may, however, write applications for insurance under an assigned risk, cooperative industry, or government established residual market plan or facility in accordance with the Company's rules and procedures.

- F. The Company will determine in its sole discretion all matters relating to its business and the operation of the Company including, but not limited to, the following:
1. The determination of contract forms and provisions, premiums, fees, and charges for insurance and other Company Business;
 2. The acceptance or rejection of any application;
 3. The termination or modification of any contract or the refusal to renew any contract;
 4. The limitation, restriction, or discontinuance of the writing or selling of any policies, coverages, lines, or kinds of insurance or other Company Business;
 5. The obtaining of any licenses of the Company or the Company's withdrawal from any state, jurisdiction, or territory; and
 6. The type and quality of customer service received by Company policyholders.

II. DUTIES AND CONDITIONS:

- A. You will act as an agent of the Company for the purpose of soliciting, selling, and servicing insurance and other Company Business in accordance with the provisions of this Agreement. As an agent of the Company, you will provide customer service, including the collection of payments, for any and all Company policyholders and you will assist in claims administration in accordance with the Company's rules and procedures.
- B. You will meet certain business objectives established by the Company in the areas of profitability, growth, retention, customer satisfaction and customer service. You will build and maintain a profitable book of business, assist the Company in its efforts to achieve market penetration for all forms of insurance offered by the Company and other Company Business, and service the Company's customers in a manner consistent with the Company's goodwill, reputation, and overall business strategy.
- C. You will record, transmit, and process insurance and Company Business in the manner prescribed in the then current provisions of the Supplement.
- D. You agree to maintain any required agent license in the state or states in which you are appointed to represent the Company and to comply with any and all applicable federal, state, or local laws, rules, regulations and ordinances affecting your operation.
- E. The Company recognizes that you may, in your sole discretion, arrange to have business conducted at your sales location in your absence by your own employees or other persons and that the time during which you are physically present at your sales location is entirely in your sole discretion. You must, however, remain actively involved in the conduct of business at your sales location.
- F. You agree that the Company will have the authority to use your name and signature, or facsimile thereof, on policy documents and customer communication materials.
- G. You agree to maintain a professional business relationship with the Company, and, when requested, to meet with Company representatives at mutually convenient times to discuss various business topics. You also agree that, because you are conducting business with the public under the Allstate name, Company representatives shall be permitted access to your agency to review compliance with this Agreement during agency business hours.

- H. You agree that, as requested by the Company, you will demonstrate your knowledge of the Company products you are authorized to sell, as well as of federal, state, or local laws, rules, regulations and ordinances affecting your operation. If you are unable to demonstrate your knowledge of any product, the Company reserves the right to deny you the authority, or withdraw your existing authority, to sell that product until you demonstrate such knowledge.

III. YOUR EMPLOYEES:

- A. You have no authority to employ persons on behalf of the Company, and no employee of yours will be deemed to be an employee or agent of the Company, such employees at all times remaining your employees. You have sole and exclusive control over your labor and employee relations policies, and your policies relating to wages, hours, and working conditions of your employees. You have the sole and exclusive right to hire, transfer, suspend, lay off, recall, promote, assign, discipline, and discharge your employees.
- B. You are solely responsible for all salaries and other compensation of all your employees and will make all necessary salary deductions and withholdings from your employees' salaries and other compensation. You are solely responsible for the payment of any and all contributions, taxes, and assessments, and all other requirements of the federal Social Security, federal and state unemployment compensation, and federal, state, and local withholding of income tax laws on all salary and other compensation of your employees.
- C. You will comply with all other contracts, federal, state or local laws, ordinances, rules, or regulations regarding your employees, including federal or state laws or regulations regarding minimum compensation, overtime, and equal opportunities for employment. This includes, but is not limited to, your warranty and agreement to comply with the terms of the federal and state civil rights acts, Age Discrimination in Employment Act, Americans With Disabilities Act, Occupational Safety and Health Act, Immigration Reform and Control Act, and the Fair Labor Standards Act.
- D. You agree and warrant that your employees, while working in connection with this Agreement, will comply with any and all applicable federal, state, or local laws, rules, regulations, and ordinances.

IV. COMPANY PROPERTY, CONFIDENTIALITY:

- A. The Company will furnish you such signs, forms, manuals, records, and other materials and supplies as the Company deems advisable to assist you. All such property and information furnished by the Company will remain the property of the Company. In addition, the Company will offer, at your expense, such additional materials and supplies as the Company feels may be helpful to you.
- B. You agree that you will not at any time or in any manner, directly or indirectly, disclose to any third party or permit any third party to access any confidential information or any information containing trade secrets concerning any matters affecting or relating to the pursuits of the Company, except upon direct written authority of the Company. Furthermore, upon termination of this Agreement, you agree to treat as confidential and not to disclose, either directly or indirectly, to any third party any confidential information or trade secrets of the Company.
- C. You agree that you will not disclose or grant access to any confidential information or trade secrets to any of your employees or other persons providing services for you in connection with this Agreement, unless such employee or other person has signed a copy of the Confidentiality and Non-Competition Agreement attached as Appendix A. Appendix A is a sample copy of the electronic version of the document that must be transmitted to the Company.

- D. Confidential information includes, but is not limited to: business plans of the Company; information regarding the names, addresses, and ages of policyholders of the Company; types of policies; amounts of insurance; premium amounts; the description and location of insured property; the expiration or renewal dates of policies; policyholder listings and any policyholder information subject to any privacy law; claim information; certain information and material identified by the Company as confidential or information considered a trade secret as provided herein or by law; and any information concerning any matters affecting or relating to the pursuits of the Company that is not otherwise lawfully available to the public. All such confidential information is wholly owned by the Company. Such confidential information may be used by you only for the purposes of carrying out the provisions of this Agreement.
- E. Any confidential information or trade secrets recorded on paper, electronic data file, or any other medium, whether provided by the Company or by you, is the exclusive property of the Company, as is any such medium and any copy of such medium.
- F. You recognize that a breach of the foregoing provisions will cause irreparable damage to the Company's business and that such damage is difficult or impossible to measure. You agree that in the event of such breach, the Company, in addition to such other rights and remedies it may have, will be immediately entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and you waive any defense to an application for such order, except that the violation did not occur. You agree that the Company will be entitled to an award of reasonable attorneys' fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.

V. SALES LOCATION:

- A. You may select your sales location, within a geographical area specified by the Company, subject to Company approval. Initially, you have selected the location at 59 Green Street and such sales location has been approved by the Company. You agree that you will not establish any additional sales location without the prior written approval of the Company. You understand that you have no exclusive territorial rights in connection with your sales location.
- B. You agree to keep your sales location open for business as appropriate in the market to provide a proper level of customer service. As a minimum, you agree to operate your sales location consistently with the Agency Standards.
- C. You are authorized to sell insurance offered by the Company and Company Business only in the state containing your sales location and other states in which you are properly licensed and appointed as an agent by the Company.

VI. ADVERTISING:

- A. The Company will advertise its products and provide promotional material in accordance with its advertising policies. You may also advertise in your sole discretion, subject to the requirements in paragraph B. below.
- B. You will submit all signs and advertising copy, including, but not limited to, sales brochures, display advertisements in telephone directories, newspaper advertisements, radio and television commercials, electronic media displays, all sales promotional plans and devices, and all other materials to the Company for approval, if they use or contain any reference to any service mark or trade name of the Company. You will not use any such advertising material or sales promotional plan or device without obtaining prior written approval from the Company. The Company has the right to disapprove any or all of the aforesaid advertising forms and other materials insofar as they, in the exclusive judgment of the Company, do not conform to Company policy regarding use of Company service marks or trade names; may subject the Company to liability or loss of goodwill; may damage the reputation of the Company or Company customer relations; may fail to adhere to the requirements of any federal, state, or local governmental rules, regulations, or laws; may fail to

conform to community or Company standards of good taste and honest dealing; or may be detrimental to the business interests of the Company.

VII. SERVICE MARK AND TRADE NAME PROTECTION:

- A. You agree to cooperate fully in the quality control program conducted by the Company relating to the use of its service marks and trade names and the nature and quality of services rendered and goods distributed under its service marks and trade names. The Company will have the right to specify, delineate, or limit the services or goods in connection with which you may use any of its service marks or trade names. In the event that the nature or the quality of the services or goods in connection with which you use any of the service marks or trade names of the Company is not acceptable to the Company, then the Company will have the right to require you to institute appropriate procedures to correct any deficiencies noted by the Company.
- B. You agree, at the request and expense of the Company, to assist the Company in protecting and enforcing the rights of the Company in and to any and all of its service marks and trade names which you may then be using.
- C. You will not in any manner encumber, alienate, license, or transfer to any other entity any right whatsoever concerning the service marks or trade names the Company authorizes you to use in the performance of this Agreement, except as permitted in Section XVI.
- D. You recognize that a breach of the foregoing provisions will cause irreparable damage to the Company's business and that such damage is difficult or impossible to measure. You agree that in the event of such breach, the Company, in addition to such other rights and remedies it may have, will be immediately entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and you waive any defense to an application for such order, except that the violation did not occur. You agree that the Company will be entitled to an award of reasonable attorneys' fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.

VIII. EXPENSES:

You will be responsible for the payment of all expenses that you incur in the performance of this Agreement including, but not limited to: expenses for your sales location, supplies not furnished by the Company, compensation of your employees or other assisting persons whom you engage, telephone, postage, and advertising expenses incurred at your direction, and all other charges and expenses.

IX. TELEPHONE:

All telephone numbers used in connection with business conducted pursuant to this Agreement are the property of the Company.

X. INDEMNIFICATION:

- A. The Company will defend and indemnify you against liability, including the cost of defense and settlements, imposed on you by law for damages sustained by policyholders and caused by acts or omissions of the Company, provided that you have not caused or contributed to cause such liability by your acts or omissions. You agree, as a condition to such indemnification, to notify the Company promptly of any claim or suit against you and to allow the Company to make such investigation, settlement, or defense as the Company deems prudent. The Company reserves the right to select counsel to represent you in connection with any such claim or suit. You also agree to cooperate fully with the Company in any such investigation, settlement, or defense.

- B. You will indemnify the Company against liability, including the cost of defense and settlements, imposed on the Company by law for damages sustained by any person and caused by your acts or omission, or those of any employee or other person working in connection with this Agreement, provided that the Company has not caused or contributed to cause such liability by its acts or omissions. The Company agrees, as a condition to such indemnification, to notify you promptly of any such claim or suit against the Company. The Company reserves the right to select counsel to represent it in connection with any such claim or suit and to make such investigation or settlement as the Company deems prudent.

XI. INSURANCE:

- A. You agree that you will, at your sole expense, obtain and maintain during the term of this Agreement policies of insurance as described in the EA Manual, as may be amended from time to time. Such policies must be obtained from companies satisfactory to the Company and must be adequate to protect against all expenses, claims, actions, liabilities, and losses related to the subjects covered by the required policies.
- B. Where specified, each policy must name the Company as an additional insured and must contain a severability of interest/cross liability endorsement. Each policy must also expressly provide that it will not be subject to material change or cancellation without at least thirty (30) days prior written notice to the Company.
- C. You must furnish the Company with proof of insurance upon request by the Company. If, in the Company's opinion, such policies do not afford adequate protection for the Company, the Company will so advise you, and if you do not furnish evidence of acceptable coverage within fifteen (15) days after being requested to do so by the Company, the Company will have the right to obtain additional insurance at your expense and deduct the cost of such insurance plus a processing fee from monies owed you by the Company.

XII. FINANCIAL INFORMATION:

You shall maintain all books and records relating to the business under this Agreement including, but not limited to, all checkbooks, check registers, deposit receipts, and general ledgers for a period of not less than five years after the close of the fiscal year to which they relate. All of the foregoing records shall be open and available for inspection or audit at any time during normal agency hours without notice by the Company or its designated auditors and you shall have the duty to cooperate fully with the party(ies) making such inspection or audit.

XIII. POLICIES IN YOUR ACCOUNT:

Policies which are credited to your account are described in the Supplement. While this Agreement is in effect, the Company will leave in your account all policies credited to your account so long as the policyholder resides within a state in which you are licensed and appointed by the Company, except that the Company may remove any policy from your account at the request of a policyholder.

XIV. MONEY COLLECTED BY YOU:

All payments collected or received by you in the performance of this Agreement are the property of the Company, will be treated as trust funds, and will be promptly transmitted to the Company without deduction for any purpose in the manner specified by the Company. You must maintain accurate records and current remittance reports which may be inspected by the Company at any time without notice and which shall be submitted to the Company in accordance with its rules and procedures.

XV. COMPENSATION:

- A. The sole compensation to which you will be entitled for services rendered pursuant to this Agreement will be the commissions set forth in the Supplement, as may be amended from time to time. The Company will pay you your commissions at the time and in the manner set forth in the Supplement. However, due to the inherent uncertainty of business conditions, the Company reserves the right to increase or decrease any commission amounts and to change the commission rules. If the Company changes commission amounts, it will provide you with written notice of the changes at least ninety (90) days prior to the date on which they are to become effective.
- B. The Company may provide you with such bonuses, awards, prizes, and other remuneration based on performance, if any, as it may prescribe in its sole discretion.
- C. If any application for insurance is rejected, or any policy is surrendered or canceled, in whole or in part, for any reason, before the expiration of the policy period, or if any premium is reduced or any overpayment made to you, or if any premium paid is not earned by the Company, the commissions paid to you on the amount returned or credited to the policyholder, or the amount overpaid to you, will constitute an indebtedness of yours to the Company and will be charged to you or recovered from you by reducing any future commissions, awards, or bonuses due you.

XVI. TRANSFER OF INTEREST:

- A. This Agreement is personal to you and is being entered into in reliance upon and in consideration of your skills, qualifications, and representations. Accordingly, you may not execute a transfer of your interest in this Agreement or any interest in the business under this Agreement including, but not limited to, any sale, assignment, conveyance or the granting of any lien, security interest, pledge, or mortgage thereof, without the prior written approval of the Company. A transfer of interest in this Agreement is described in the Supplement and EA Manual and includes, but is not limited to, any sale, merger, or assignment, in whole or in part, directly, indirectly, or contingently, of this Agreement or any rights or obligations under it. You have the obligation to notify the Company of a proposed transfer and to request Company approval.
- B. You have an economic interest, as defined in this Agreement and the incorporated Supplement and EA Manual, in your Allstate customer accounts developed under this Agreement. Subject to the terms and conditions set forth in this Agreement and the incorporated Supplement and EA Manual, you may transfer your entire economic interest in the business written under this Agreement upon termination of this Agreement by selling the economic interest in the business to an approved buyer. The Company retains the right in its exclusive judgment to approve or disapprove such a transfer. Any failure to disclose and obtain the prior written approval of the Company for any transfer of your interest in this Agreement or any interest in the business under this Agreement shall constitute a breach of this Agreement and cause for termination of this Agreement.
- C. Approval of a proposed transfer of your entire interest in this Agreement will be conditioned upon the termination of this Agreement and the execution of a then current agency agreement by the proposed transferee.
- D. Policies in your account (Section XIII. above) will be transferred to an approved transferee.

XVII. TERMINATION OF AGREEMENT:

A. This Agreement will be terminated automatically:

1. On the effective date of any transfer of your entire interest in this Agreement, whether approved or not, as described in Section XVI. above;
2. Upon your death or permanent incapacity;
3. Upon your loss of any required agent license; or
4. Upon the surrender of, or the election not to renew, the Company's license to sell insurance in all lines in the state in which your sales location is located or the discontinuation of the sale of insurance in the state.

B. This Agreement may be terminated:

1. At any time by mutual agreement of the parties in writing;
2. By either party, with or without cause, upon providing ninety (90) days prior written notice to the other, or such greater number of days as is required by law. Once written notice of termination has been given by either party, you will, immediately upon request of the Company, cease to act or to represent yourself in any way as an agent or representative of the Company, but you will receive compensation pursuant to Section XV. from the Company for the period up to and including the specified termination date; or
3. Alternatively, by the Company, with cause, immediately upon providing written notice to you. Cause may include, but is not limited to, breach of this Agreement, fraud, forgery, misrepresentation or conviction of a crime. The list of examples of cause just stated shall not be construed to exclude any other possible ground as cause for termination.

XVIII. OBLIGATIONS UPON TERMINATION OF AGREEMENT:

Except as otherwise provided in a subsequent agreement between you and the Company, upon termination of this Agreement, you agree that:

- A. You will not act or represent yourself in any way as an agent or representative of the Company.
- B. You will immediately return all property belonging to the Company, or dispose of it in such manner as the Company specifies.
- C. You will immediately cease to use such telephone numbers referenced in Section IX. above and execute an Order of Transfer of Responsibility for such numbers in your name to the Company or to any party the Company designates, and you will immediately notify the telephone company of any such transfer. You will be responsible for all charges incurred up to the date of execution of the transfer.
- D. For a period of one year following termination, you will not solicit the purchase of products or services in competition with those sold by the Company:
 1. With respect to any person, company, or organization to whom you or anyone acting on your behalf sold insurance or other products or services on behalf of the Company and who is a customer of the Company at the time of termination of the Agreement;
 2. With respect to any person, company, or organization who is a customer of the Company at the time of termination of this Agreement and whose identity was discovered by you as a result of your status as a Company agent or as a result of your access to confidential information of the Company; or

3. From any office or business site located within one mile of the agency sales location maintained pursuant to Section V. of this Agreement at the time this Agreement is terminated.

In the event that such one year period or one mile distance exceeds the time or distance permitted by any applicable law, such period or distance will be automatically adjusted to the maximum period or distance permitted by such law. If any other provision in this paragraph D. conflicts with any existing law, it will be applied to the extent permitted by such law.

- E. You will immediately cease and desist from any and all use of Company service marks and trade names. You will immediately return to the Company all property in your possession or under your control bearing any Company service mark or trade name, or dispose of it in such manner as the Company specifies.
- F. You recognize that a breach of any of the foregoing provisions will cause irreparable damage to the Company's business and that such damage will be difficult or impossible to measure. You agree that in the event of any such breach, the Company, in addition to such other rights and remedies as it may have, will be immediately entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and you waive any defense to an application for such order, except that the violation did not occur. You agree that the Company will be entitled to an award of reasonable attorneys' fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.
- G. You recognize and acknowledge that each of the foregoing provisions of this Section XVIII. is reasonable and necessary to protect and preserve the legitimate business interests of the Company, its present and potential business activities, and the economic benefits derived therefrom. You recognize and acknowledge that the foregoing provisions will not prevent you from earning a livelihood and are not an undue restraint on you.

XIX. NOTICE:

All notices will be deemed to have been given if personally delivered, sent by facsimile transmission, or mailed as follows:

if to the Company:

Allstate Insurance Company
1200 Atwater Drive, Suite 200
Malvern, PA 19355
 Attention: Maria Ascario

if to you:

Paul Wasgatt
59 Green Street
Worcester, MASS 01604

or to such other person or address as any party may furnish or designate to the other in writing.

XX. GENERAL PROVISIONS:

A. This Agreement may not be modified except by a written agreement between the Company and you which expressly states that it modifies this Agreement. No other written statements, representations, or agreements and no oral statements, representations, or agreements will be effective to modify this Agreement. No representative of the Company will have authority to modify this Agreement, except as provided in this Section XX. Nothing in this Section will affect the Company's right to amend the Supplement, EA Manual, and Agency Standards, as provided in Section I.C.

- B. You acknowledge that you have reviewed the Supplement, EA Manual, and Agency Standards and that you have an ongoing responsibility to review all changes to the Supplement, EA Manual and Agency Standards issued by the Company and agree to be bound by them.
- C. References in this Agreement to the Supplement, EA Manual, and Agency Standards are references to the Supplement, EA Manual, and Agency Standards, including any changes which may be made from time to time and distributed to you by the Company.
- D. You acknowledge that you have read this Allstate R3001S Exclusive Agency Agreement, understand it, and agree to be bound by its terms.
- E. The authority granted to you under this Agreement is nonexclusive. The term "Exclusive" as used in the title of this Agreement refers to the obligations assumed by you under Section I.E.
- F. The descriptive headings of this Agreement are intended for reference only and will not affect the construction or interpretation of this Agreement.
- G. If any provision or part of this Agreement is held invalid for any reason, such invalidity will not affect any other provision or part of this Agreement not held invalid, and such remaining provisions and parts will remain in full force and effect.
- H. The failure of either party to insist upon the performance of any of the terms of this Agreement in any one or more instances will not be construed as a waiver or relinquishment of the future performance of any such term. The obligation of the parties with respect to any such future performance will continue in full force and effect.
- I. Nothing in this Agreement shall be construed to confer upon any person or entity other than the Company and you any rights under this Agreement.
- J. This Agreement, and the obligations or rights hereunder, shall not be assignable by you, except as provided by Section XVI. The rights and obligations of the parties to this Agreement shall be binding upon and inure to the benefit of the Company and its successors and assigns.
- K. This Agreement may be executed in counterparts, each of which will be deemed an original.

IN WITNESS WHEREOF, the Company and Agency have caused this Agreement to be executed by their authorized representatives and the parties hereby accept the terms of this Agreement.

ALLSTATE INSURANCE COMPANY

Maura Adams

(authorized representative)

8-1-13

(date)

YOU

[Signature]

(name)

7/16/2013

(date)

R3001S
APPENDIX A

CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

This Confidentiality and Non-Competition Agreement ("Agreement") is entered into this _____ day of _____, _____, by and between _____ (referred to in this Agreement as "Service Provider"), and _____ (referred to in this Agreement as "Agent"), and Allstate Insurance Company as a direct third party beneficiary of this Agreement (referred to in this Agreement as "the Company").

WHEREAS, the Company has entered into an agency agreement appointing Agent to act as its agent for the purpose of receiving and accepting applications for insurance and for selling certain specified products of the Company's subsidiaries and affiliates; and

WHEREAS, under the terms of the agency agreement, Agent has agreed to maintain the confidentiality of the Company's confidential information; and

WHEREAS, Agent has employed Service Provider to assist Agent in performing services under the agency agreement; and

WHEREAS, Service Provider will have access to certain confidential information of the Company;

NOW, THEREFORE, for and in consideration of the agreements, covenants, and conditions herein contained, the adequacy and sufficiency of which is expressly acknowledged by each of the parties hereto, the parties agree as follows:

1. The terms "employed" or "employment" as referred to in this Agreement apply to any service provided by the Service Provider as an employee, independent contractor, or in any other capacity.
2. Service Provider acknowledges that while assisting Agent in performing services under the agency agreement, Service Provider will have access to or will have disclosed to him/her confidential information concerning the Company, the disclosure of which could be harmful to the Company.
3. Confidential information includes, but is not limited to, business plans of the Company; information regarding the names, addresses, and ages of policyholders or prospective policyholders of the Company; types of policies; amounts of insurance; premium amounts; the description and location of insured property; the expiration or renewal dates of policies; policyholder listings and any policyholder information subject to any privacy law; claim information; certain information and material identified by the Company as confidential or information considered a trade secret as provided herein or by law; and any information concerning any matters affecting or relating to the pursuits of the Company that is not otherwise lawfully available to the public. Confidential information may be oral or recorded on paper, electronic data file, or any other medium.
4. Service Provider agrees that he/she will not at any time or in any manner, directly or indirectly, disclose to any third party or permit any third party to access any confidential information, except upon the written consent of the Company, nor will Service Provider use any confidential information for his/her own benefit, except for the purposes of assisting Agent in performing services under the agency agreement.
5. Any and all confidential information and all Company forms, manuals, records, and other materials and supplies furnished to Service Provider by the Agent will at all times remain the property of the Company and will be returned to the Company at any time upon the demand of the Company or upon the termination of Service Provider's employment by Agent.
6. Upon the termination of Service Provider's employment by Agent, Service Provider agrees to treat as confidential and not disclose, either directly or indirectly, to any third party any confidential information of the Company.

7. For a period of one year following the termination of Service Provider's employment by Agent, Service Provider agrees not to solicit the purchase of products or services in competition with those sold by the Company:
 1. With respect to any person, company, or organization to whom Agent, or any person employed by Agent, including Service Provider, sold insurance or other products or services on behalf of the Company, and who is a customer of the Company at the time of the termination; or
 2. With respect to any person, company, or organization who is a customer of the Company at the time of the termination and whose identity was discovered as a result of access to confidential information of the Company; or
 3. From any office or business site located within one mile of any locations from which the Agent solicited or sold Company insurance or other products or services during the year immediately preceding the termination.

In the event that such one year period or one mile distance exceeds the time or distance permitted by any applicable law, such period or distance will be automatically adjusted to the maximum period or distance permitted by such law. If any other provision in this paragraph 7 conflicts with any existing law, it will be applied to the extent permitted by such law.

8. Upon the termination of Service Provider's employment with Agent, Service Provider will immediately cease and desist from any and all use of Company service marks and trade names. Service Provider will immediately return to the Agent or the Company all property bearing any company service marks or trade names, or dispose of such materials in the manner specified by the Company. If requested by the Company, Service Provider will execute an Order of Transfer of Responsibility for any telephone numbers in the Service Provider's name, which were used in connection with the conduct of business on behalf of the Company.
9. While employed by Agent, Service Provider agrees that he/she will not, either directly or indirectly, solicit, sell or service insurance of any kind for any other company, agent or broker, or refer a prospect to another company, agent or broker without the prior written consent of the Company.
10. Service Provider recognizes that a breach of any of the foregoing provisions will cause irreparable damage to the Company's business and that such damage will be difficult or impossible to measure. Service Provider agrees that in the event of any such breach, the Company, in addition to such other rights and remedies as it may have, will be entitled to an order granting injunctive relief from any court of competent jurisdiction against any act which would violate any such provision, without the necessity of posting a bond, and Service Provider waives any defense to an application for such order, except that the violation did not occur. Service Provider agrees that the Company will be entitled to an award of reasonable attorney's fees in the event that it is successful in an application for injunctive relief or in an action based upon breach of the foregoing provisions.
11. This Agreement supersedes and replaces any prior confidentiality and non-competition agreement between the parties hereto. The parties agree that the use of electronic signatures for the execution of this Agreement shall be legal and binding and shall have the same full force and effect as if originally signed.

IN WITNESS WHEREOF, the parties hereby accept the terms of this Agreement.

Accepted by:

SERVICE PROVIDER _____ (name) _____ (date)	AGENT _____ (name) _____ (date)	ALLSTATE INSURANCE COMPANY _____ (authorized representative) _____ (date)
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Exhibit B

Agency Transition Addendum

For purposes of this Agency Transition Addendum ("Addendum"), Allstate Insurance Company and such affiliates and subsidiaries as are named in the Supplement for the R3001 Agreement are herein referred to as "us", "we" or "Allstate" and Paul Wasgatt is herein referred to as "agency" or "you".

This Addendum shall cover the period beginning the 1st day of August, 2013 and ending the 31 day of October, 2014 ("Contract Period").

Whereas, Agency has been appointed as an Allstate Exclusive Agent under the R3001 Exclusive Agency Agreement and will be winding down its Independent Agency operations in a customer focused manner while at the same time fulfilling all of its obligations under the R3001 Exclusive Agency Program. The parties believe the transition will take 15 months and, therefore, this Addendum will automatically terminate at the end of the Contract Period.

Whereas, Agency represents that it has already provided adequate notice to the insurance carriers it represents/represented as an independent agency or broker, and that all of said relationships will have been terminated as of 10/31, 2014.

Therefore the parties agree as follows:

- This Addendum automatically terminates at the end of the Contract Period as specified above. Either party to this Addendum may terminate this Addendum before the end of the Contract Period by giving written notice of intention to terminate directed to the other party at least 90 days prior to the termination effective date. The cancellation or termination of your R3001 Exclusive Agency Agreement with us shall automatically cancel this Addendum with no further notice required by us.

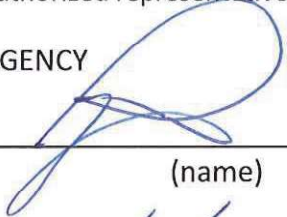
Allstate's failure to enforce or apply any of the provisions of this Addendum shall in no way be construed to be a waiver of such provisions or affect our right to thereafter apply such provisions.

- Notwithstanding the provisions of the R3001 Exclusive Agency Agreement and its incorporated documents, it is agreed that the agency will be permitted during the Contract Period to:
 - Continue to service business written prior to the execution of this Addendum in which agency is the producer of record; and
 - Maintain a location to wind down Agency's Independent Agency operations, provided Agency maintains separate and distinct operations to avoid customer


confusion and protect the privacy of any and all data involving Allstate customer and prospect information.

In Witness Whereof, Allstate and the Agency have caused this Addendum to be executed by their authorized representatives and the parties hereby accept the terms of this Addendum.

AGENCY



(name)

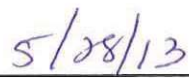


(date)

ALLSTATE INSURANCE COMPANY



(authorized representative)



(date)