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[See table of contents](#)

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## Bulletin de documentation<sup>(1)</sup>

par

Monique Dumont<sup>(2)</sup>

226

*The purpose of this review of insurance documents, prepared by Miss Dumont, Manager of the Documentation Centre of the Sodarcac Group, is to summarize the most pertinent articles collected over the preceding quarter. A monthly Bulletin containing the full-length review may be obtained at a cost of \$60 per year for Canadian orders and \$70 U.S. per year for foreign orders. Here are some excerpts of March and April 1985 Bulletins (Volume II, No. 3 and No. 4).*



### 1. Extraits du numéro de Mars 1985

#### **Assurances-marchés, produits/Insurances-markets, products**

Protecting directors suddenly gets costly. Insurers are pumping up prices of directors and officers liability coverage and reducing the limits on the policies. The surge in insurance prices follows five years of rapidly declining prices for directors and officers coverage. Now suits against directors are proliferating, and claims from those low-prices policies are catching up with insurers. US (*Fortune*, March 18, 1985).

A review of Canadian marine insurance market. Inadequate rating on hull accounts continues at a level totally inadequate to produce a premium to offer even the remotest chance of an underwriting profit, writes the author of this article. How much longer can marine

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(1) Nous publions, dans cette chronique, des extraits du *Bulletin mensuel des Assurances* de mars 1985 et d'avril 1985. Tout intéressé pourra obtenir les Bulletins complets paraissant tous les mois, au coût de \$60 par an (\$70 U.S. à l'étranger), en s'adressant au secrétariat de la Revue «*Assurances*».

(2) Mlle Dumont est directeur de la documentation chez Gérard Parizeau Ltée, membre du groupe Sodarcac.

underwriters in Canada continue to participate in a great many Canadian risks? Is Canada missing the boat?  
(*Canadian Insurance*, February 1985).

Restaurant owners are finding it more difficult to obtain insurance for their operations, and the proof is in the pudding. Insurers say they are looking closely at how a restaurant is managed and by whom, taking into consideration work experience, loss experience and profitability. Premiums, in some cases, can triple. US  
(*Journal of Commerce*, March 11, 1985).

A look at financial guarantees. What types of transactions need guarantees. New applications. Broad range of financial guarantees are available today. Current markets. US  
(*John Liner Letter*. February 1985).

227

Chubb indicated that adding political risk coverage into an all risk package is a major trend for the future of this type of insurance. Chubb sees the future as getting away from finding a niche and instead producing total packages that would wrap property, theft, political risk and individual protection into one policy.  
(*Journal of Commerce*, March 11, 1985).

Showstoppers — a new insurance plan designed to protect not-for-profit organizations and businesses against financial losses associated with conventions, meetings and trade shows, is now available from CNA. US  
(*The National Underwriter P/C*, February 22, 1985).

The prognosis is poor for hospital risk managers struggling to cure their medical malpractice insurance ills. Nearly all hospitals are facing hefty rate increases when they renew their medical malpractice insurance, many report they cannot find the same limits they purchased last year, and some say the coverage that is available comes with new restrictions. Double-digit rate increases for primary medical malpractice coverage are common, but those increases pale in comparison with rate hikes for excess coverage, which are typically 200% or more. US  
(*Business Insurance*, March 11, 1985).

The number of multinational firms desiring comprehensive global insurance policies to cover their worldwide risks is likely to in-

crease "substantially". One of the main unknown in the growth of global insurance is the role of the broker in promoting such a cover. (*Journal of Commerce*, March 13, 1985).

228 The withdrawal of US and London underwriters from the fidelity insurance market is forcing large US banks and other financial institutions to pay sharply higher rates and settle for reduced limits, insurers say. In London, capacity for financial institutions' fidelity risks has been out in half in the past six months. In the US, several large markets have stopped writing financial institution fidelity risk. US  
(*Business Insurance*, March 18, 1985).

There's a new insurance coverage for travelers : Pay-Med, which came into effect last December, is a deluxe option offered through Blue Cross of Ontario and Health Assistance for Travelers Inc. Deluxe coverage includes all the benefits of the regular Blue Cross plan, but adds payment and emergency assistance. It covers Canadians in all parts of the world.  
(*Financial Post*, March 30, 1985).

### **Assurances-Canada/Insurance in Canada**

L'important en 1985 sera les prix. Au cours des neuf premiers mois de 1984, les résultats n'ont pas cessé de se détériorer. Pire encore, pratiquement aucune amélioration n'est attendue en 1985 à moins que la tendance actuelle à la hausse des primes ne se maintienne. Les branches qui produisent les pires rapports sinistres/ primes seront les premières touchées ; l'assurance RC et la partie RC de l'assurance automobile sont les premiers candidats à cette hausse. Au Québec, on ne s'attend pas à un impact immédiat de la loi 75 mais plutôt comme l'indication d'une voie future. Selon Jacques Drouin, les cabinets de courtage devront se réorganiser pour avoir plus d'une spécialité. Des changements sont en train de se produire au niveau de la distribution.  
(*Regards*, janv-fév, 1985).

Financial supermarkets : fad or trend. Wayne Scott, senior v.p. general manager of Cooperators General Insurance Co, believes that one-stop concept and what technology can offer are both overstepping what customers now are ready for. Consumer will always want information and help. From the insurers' point of view, it means pro-

viding innovative and cost-effective products, through a greater variety of efficient, convenient distribution systems, with a new look at policyholder service. Far from desiring the supermarket approach, consumers of financial services want boutiques. The challenge for financial services providers is to reach highly specialized market segments with the mix of products that consumers need. This has to be achieved through flexible, multi-faceted distribution channels. (*Canadian Underwriter*, Febr. 1985).

SEF 44 : how will it affect automobile coverage in Canada ? Agents/brokers ought to be warned about the pitfalls of SEF 44, the endorsement for automobile coverage which took over from SEF 42 on January 31st. (*Canadian Insurance*, March 1985).

229

Will 1985 be year for "blood in the streets" ? The outlook for the industry in 1985 is not good, according to a panel discussion at a recent meeting of the P/C Underwriters Club. In fact, one panel member expect 1985 will be even worse than 1984. (*Canadian Insurance*, March 1985).

L'épidémie des poursuites en responsabilité gagne maintenant le Québec. Bilan de la situation à la suite de l'augmentation des réclamations, du montant des indemnités et de la trilogie du juge Letarte. Comparaison avec les États-Unis. (*Le Devoir*, 19 mars 1985).

A new, ultimately US mutual-owned insurer, Canadian Northern Shield Insurance Co. Ltd, Vancouver BC, has acquired the "denationalized" general insurance division of the provincial government-owned ICBC. CNS is a re-naming of ICBC-GID and is a subsidiary of a composite insurer, Cumis Group Ltd. (CUNA Mutual Insurance Society, USA) (*World Insurance Report*, March 22, 1985).

Sluggish growth in earned premium of only 4.1% while losses incurred grew 14.8% continued to plague the industry during 1984, resulting in an underwriting loss of \$916.7 million, or a 112% operating ratio. Commercial property, automobile liability and general liability deteriorated in 1984. Indications for 1985 are not favourable relative to the 1984 results as the base. Capacity utilization remains relatively low. The trends in premiums chart shows that prices are

beginning to firm up but price increases will be selective by province and by class of business rather than across-the-board.  
(*IAO Quarterly Report*, 21 March 1985).

Lloyd's Canadian business. Rowe & Pitman newly published review of the Canadian insurance market shows Lloyd's as the most profitable of the major insurers in Canada in 1983. Lloyd's is a market leader in property insurance, 6th in liability and 16th in motor. Lloyd's is strong in Quebec (\$65 million in premiums : \$126 million in premiums for Ontario).

230 (*London Market Newsletter*, March 19, 1985).

### **Compagnie d'assurances/Insurance companies**

Le Groupe La Laurentienne entend toujours procéder à une émission publique d'actions, sans préciser à quel moment. Tout le plan de développement du Groupe s'articule autour de la constitution de la Corporation du Groupe La Laurentienne en un véritable holding.

(*Le Devoir*, 1er mars 1985).

Industrial Life (l'Industrielle) expects to form a "downstream" holding company by year-end and continues to plan expansion in the Ontario market and nationally. The new holding company, 100 per cent owned by the mutual company, will own Industrial Life's miscellaneous interests including the general insurance subsidiaries and its large date processing unit (IST). Industrial Life is looking for an acquisition again in the Ontario market.

(*The Globe & Mail*, March 12, 1985).

London Life Insurance Co. of London was able to increase its share of the individual life insurance market in Canada last year by a percentage point to 13.8 per cent. But the growth in new sales reduced profits for individual product lines.

(*The Globe & Mail*, March 21, 1985).

L'Alliance, compagnie mutuelle d'assurance vie, est fin prête à réagir au mouvement de décloisonnement des institutions financières. Elle vient de se doter d'une société de gestion qui reprendra ses investissements présents et à venir dans le secteur des services financiers ; le nom de la nouvelle société est Alligest Inc. M. Vincent con-

çoit l'émergence de centres d'achats sous un même toit, rejoignant ainsi la position de Claude Castonguay, de La Laurentienne. (*Le Devoir*, 22 mars 1985).

Les actifs de la société l'Excellence se sont accrus de 17% en 1984 pour terminer l'année à \$11.4 millions. Le portefeuille d'assurances en vigueur est maintenant rendu à \$163 millions. Les ventes de la compagnie ont été influencées par les taux d'intérêt et les politiques fiscales concernant les polices d'assurance-vie. (*Le Devoir*, 27 mars 1985).

231

Les Coopérants prennent le contrôle de la compagnie de fiducie Guardian en se portant acquéreur d'un bloc de 75 pour cent d'actions ordinaires. Cette acquisition représente une transaction de \$12.6 millions. La transaction permettra à la mutuelle de fournir une gamme encore plus étendue de services financiers. Avec l'acquisition de la Guardian, les Coopérants emboîte le pas à La Laurentienne et à l'Alliance sur le terrain du supermarché financier. Mieux encore, elle devient la mutuelle d'assurance canadienne la plus diversifiée.

(*La Presse*, 27 mars 1985 ; *Le Devoir*, 28 mars 1985).

### **Courtier d'assurances/Insurance brokers**

Le décloisonnement est inévitable, mais le courtier peut en tirer avantage. Le but de la politique de déréglementation. Les courtiers et les banques. Perspectives. Impact de l'informatique. Sur le plan interne, le président de l'A.C.A.P.Q. estime que la profession va devoir se rationaliser par des fusions, la création de groupement d'achats et de regroupements de distribution.

(*Regards*, janv.-fév. 1985).

La responsabilité professionnelle du courtier d'assurances. Étude de deux arrêts de jurisprudence : *Bleau c. Compagnie d'assurance Halifax* (1983) et *Lapierre c. Épicerie de Grasse Inc.* (1984). (*Regards*, janv.-fév. 1985).

Fusion et acquisitions : bilan des fusions Reed Stenhouse-Alexander et Tomenson Saunders-Fred S. James. (*Regards*, janv.-fév. 1985).

L'inspecteur général a dévoilé ses priorités relativement à l'encadrement des intermédiaires : décloisonnement des services financiers, formation, rémunération et permis.

(*Le portefeuille d'assurances*, fév. 1985).

Alexander & Alexander is selling off its British-based insurance underwriting operations and consequently will book a "significant loss" for the fourth quarter of 1984. The Sphere Drake Insurance Co. of the Alexander Howden Group, required a big infusion of cash to its reserves in the fourth quarter as a result of poor results generally in the US casualty insurance business.

232

(*Journal of Commerce*, March 6, 1985).

Sedgwick reported a rise in 1984 profits on ordinary activities. Mr. Mosselmanns said he now sees real signs that the insurance market is improving, with reinsurance rates now showing a definite rise. (*Journal of Commerce*, March 15, 1985 ; *Business Insurance*, March 11, 1985).

Brokers' fourth quarter results gave strong conformation of the new era in pricing for commercial lines of insurance. Fourth-quarter results signaled that insurance brokerage operating numbers are moving into double-digit territory. US

(*Business Insurance*, March 11, 1985).

There is almost a one in three chance that the premium quoted for personal automobile coverage by an independent broker is wrong, according to an ad hoc study. A major general insurance company did a one-month study of the accuracy of independent broker's quotes. The company looked at 3,261 policy applications that had been submitted by independent brokers. 20 percent of applications were inaccurate. Only about 20 percent of the brokers had no errors in their quotes.

(*The Globe & Mail*, March 25, 1985).

Brokers very optimistic about profit return in '85. All of the publicly held brokers that have so far released their 1984 results reported an increase in revenues both in the fourth quarter and for the entire year. In addition, they reported profit increases from continuing operations. (*Business Insurance*, March 18, 1985).

UK insurance brokers are experiencing growth and profitability levels well above those for most manufacturing and service indus-



tries and the pattern is likely to persist in the foreseeable future, according to a survey of 60 leading brokers carried out by ICC Business Ratios.

(*World Insurance Report*, 22.3.1985)

Reed Stenhouse Co. Ltd. is going ahead with plans to merge with Alexander and Alexander Services Inc. of New York, shareholders were told at the annual meeting. The comments came after Alexander announced that it had a loss of \$67.5 million (US) in 1984, compared with a loss of \$21 million in 1983. A press release indicated that the loss would mean the U.S. company could not fulfil some conditions of the agreement.

(*The Globe & Mail*, March 30, 1985).

233

## 2. Extraits du numéro d'Avril 1985

### Nouvelles publications/New publications

*Canada Legal Directory*. 1985 ed. Containing the names of the Judges, Lawyers, Court officials, etc. throughout Canada.

*La réglementation des institutions financières du Canada : propositions à considérer/the Regulation of Canadian financial institutions : proposals for discussion*. Ottawa : Sous-ministre des Finances, 1985. (Copies à Toronto et Montréal).

*Enquête annuelle sur les employés de bureau 1985/Annual survey of clerical employees*. Montréal : Montreal Board of Trade, 1985.

*The marketing of legal services*. USA, Van Nostrand Publishing, 1984.

*Budget 1985-1986 du Québec et renseignements supplémentaires ainsi que les analyses faites par Clarkson Gordon et Mallette Benoit Boulanger Rondeau*. L'état de l'économie. Les mesures pour atteindre les objectifs.

*Strategic planning, techniques for analyzing industries and competitors*/Michael E. Porter. (Disponible/available : CIRB, Toronto).

### Actualité/News in brief

L'achat de Guardian Trustco par Les Coopérants consacre le décloisonnement des institutions financières québécoises. Dans la course au regroupement des institutions financières québécoises, il

ne reste maintenant au Québec que trois courtiers en valeurs mobilières et un groupe privé qui ne font pas partie d'un grand ensemble impliquant généralement une mutuelle d'assurance-vie.

(*Les Affaires*, 6 avril 1985).

234

Ottawa dépose un Livre vert sur la déréglementation financière. Assureurs et fiducies pourraient créer des banques mais sans en devenir eux-mêmes. Le modèle de supermarché financier prescrit que les institutions canadiennes devront demeurer distinctes et conserver leur spécialité traditionnelle. Cependant, elles pourront se regrouper sous le parapluie d'un holding financier et utiliser des guichets communs pour la distribution des produits offerts par les diverses filiales.

Il y a donc une volonté de stimuler la concurrence. À la fin de mai, le ministre compte déposer un document technique précisant les grandes orientations du Livre vert ; suivi d'une consultation et d'un projet de loi avant la fin de l'année.

(*Le Devoir*, 16 avril 1985).

When the federal government made public its long-awaited proposals on restructuring the financial services industry, the response from Canada's major banks was brief and pointed. The reaction from life insurers, on the other hand, couldn't have been more positive. The McDougall paper seems to be sending a clear message that the federal government believes the highly concentrated banking business is getting too powerful for the health of the financial industry. Investment dealers don't have a position yet in the new proposals, but are concerned about the industry.

(*The Gazette*, April 16, 1985).

The major beneficiaries of the federal approach are trust companies which along with insurers and other non-bank financial institutions, will be allowed to get into the banking business, something for which they have been pressing.

(*The Globe & Mail*, April 16, 1985).

Financial holding company intended to provide flexibility. The FHC would be able, through its group of financial institutions, to engage in an offer every important financial services in the Canadian financial system, except perhaps corporate underwriting in some provinces which might preclude this option.

(*The Globe & Mail*, April 16, 1985).

Le décloisonnement des services financiers et irréversible, telle est la conclusion d'un débat organisé par la Chambre de Commerce de Montréal. Trois raisons émergent plus particulièrement : la révolution technologique dans les communications, l'éveil et la pression des consommateurs et la vague qui vient des États-Unis (Pierre Shooner). Maurice Jodoin du Trust Général a soutenu que les banques canadiennes détiennent 70% du crédit à la consommation et 50% des dépôts des particuliers. M. Pierre Brunet de Lévesque Beaubien a déclaré que la concurrence entre les catégories d'institutions financières se fait surtout dans l'attrance des fonds et la cueillette des fonds.

(*Le Devoir*, 24 avril 1985).

235

Les \$5 milliards dépensés chaque année en assurances par les Québécois sont maintenant soumis à la taxe de vente de 9%. Ils rapporteront à l'État environ \$292 millions d'ici la fin de l'année, \$452 millions en 1986 et \$478 millions en 1987.

(*Le Devoir*, 24 avril 1985).

The tax means a Quebecer who now spends \$1,244 a year to insure life, home and car will pay an extra \$101.97 in provincial tax. (*The Gazette*, April 24, 1985).

L'industrie québécoise des assurances est sur le pied de guerre et s'oppose à la nouvelle taxe sur les primes d'assurance. L'Association des courtiers a qualifié la mesure de « surprise considérable ». L'association du camionnage du Québec a déclaré qu'il en coûterait \$2 millions de plus par année à ses membres pour assumer la nouvelle taxe. Des frais d'administration additionnels devront être assumés par les assureurs et les courtiers pour acheminer le produit de la nouvelle taxe au gouvernement.

(*La Presse*, 25 avril 1985).

Brokers at loss on how to collect tax. Senior government officials contacted by insurance-industry representatives, are giving information that is contradictory. Small firms are faced with an administrative nightmare because of the measure. Alastair Fernie, president of Canadian operations in Standard Life Assurance Co, said the government risks seriously compromising the growth of Quebec insurers.

(*The Gazette*, April 25, 1985).

L'ACCAP demande au ministre Duhaime de retarder l'application de la taxe de vente de 9% sur les primes d'assurances. (*Le Devoir*, 25 avril 1985).

236 The Association of Professional Engineers of the Province of Ontario and the Ontario of Architects have won a second reprieve from the provincial government on the implementation date for mandatory liability insurance for members who provide services to the public. The extensions were granted because of unforeseen difficulties encountered in arranging such insurance. With the cutback in capacity in the reinsurance market worldwide the timing "could not be worse." Furthermore, the association tried to impose a number of conditions for the provision of the coverage on insurers, who balked at the terms. (*The Globe & Mail*, April 23, 1985).

Crownx Inc. will consider adding banking to its financial services stable if the Federal government carries through with sweeping proposals to revise financial laws. Robert Bandeen said a key proposal is to allow the creation of financial holding companies that could combine non-bank financial institutions and a new category of banks into a coordinated diversified financial services group. (*The Globe & Mail*, April 25, 1985).

#### **Actualité juridique/Legal news**

Une poursuite de \$3,250,000 a été inscrite en Cour Supérieure de Montréal contre deux gynécologues et obstétriciens et contre l'hôpital Royal Victoria par le procureur d'un garçon de 15 ans, quadraplégique depuis sa naissance survenue avec 5 semaines de retard sur la date prévue. Ce retard serait la cause de graves dommages irréversibles au cerveau subis par le nouveau-né. (*La Presse*, 2 avril 1985).

La Cour Suprême du Canada a rendu sa décision dans la cause Lapiere c. Procureur général du Québec. Rappelons que l'enfant Lapiere est dans un état végétatif depuis qu'un vaccin anti-rougeole, inoculé en vertu d'un programme de vaccination, a eu des effets secondaires graves. La Cour Suprême rejette la théorie de la responsabilité de l'État. (*Le Devoir*, 6 avril 1985).

A man who was left a quadriplegic after diving into shallows in Cultus Lake in 1981 will receive at least \$700,000 from the provincial parks branch (BC). His lawyer says the award is part of the largest damage assessment for such injuries in Western Canada to date. The award is for 35% of total damages sought by Mr. Gerak. In 1983, the court found that Mr. Gerak was 65% responsible for his injuries.

(*The Globe & Mail*, April 10, 1985).

237

Un tribunal de Chicago a condamné un fabricant de produits pharmaceutiques (Wyeth Laboratories) à verser une indemnité record de \$22 millions à un enfant âgé de 10 ans qui a subi une grave lésion cérébrale suite à un traitement à l'aminophylline. (*L'Argus International*, no 31).

The manufacturer and distributor of a caustic chemical used in rock excavations have been ordered to pay more than \$350,000 to a Manitoba man left totally blind after he mishandled the substance. The manufacturer was assessed 5% liability because it failed to label properly and the distributor was assessed 20% liability because it failed to adequately explain to the plaintiff's employer the proper treatment to use in case of an accident and to stress the extreme urgency of such treatment. The plaintiff would have been entitled to more than \$1.3 million in loss of future earnings and general and special damages had he not been 75% responsible for his own injuries.

(*Ontario Lawyers Weekly*, March 29, 1985).

The battle over DTP, a vaccine given to nearly every American child to immunize them against three serious childhood diseases, is fast becoming the next major skirmish in the ongoing product liability war between plaintiffs' lawyers and drug manufacturers. Nearly 150 lawsuits already have been filed against DTP makers — USA (*Journal of Commerce*, April 2, 1985).

The Quebec Workers' Compensation board has set a precedent in Canada by treating sexual harassment as a work-related injury. Labor lawyers say the decision by the CSST is the first by a compensation board in Canada and possibly North America to recognize sexual harassment as a compensable occupational injury. (*The Globe & Mail*, April 11, 1985).

238 La commission d'un vendeur est un salaire au sens de la Loi sur les compagnies du Québec et l'administrateur en est tenu personnellement responsable. Tel est le sens de la décision du juge Gagnon dans l'arrêt *Lagueux c. Landry*. (*Les Affaires*, 6 avril 1985).

Accountant Arthur Andersen & Co. may have to pay more than \$22 million to Manufacturers Hanover Trust Co. for losses suffered after the collapse of Drysdale Government Securities Inc. The firm will attempt to have the verdict overturned or will try to obtain a new trial. Andersen would not comment on its professional liability insurance : however, it is believed to have adequate coverage for the award — USA  
(*Business Insurance*, April 1, 1985).

Is directors and officers liability coverage meant to respond to claims made by the policyholder/company against its own directors and officers ? This is a key question in two West Coast suits ; one seeking to recover up to \$95 million in losses suffered by San Francisco-based Bank American Corp. in a mortgage securities scandal — USA  
(*The National Underwriter*, March 29, 1985).

L'interprétation de l'article 2603 C.C. : commentaire sur l'arrêt l'Union Québécoise mutuelle d'assurance contre l'incendie c. La Mutuelle des Bois-Francs et Pierrette T. Boucher. La signification du terme « ou » (« le tiers lésé peut faire valoir son droit d'action contre l'assuré ou directement contre l'assureur ») est étudié. La Cour d'Appel ayant opté pour une interprétation restrictive, il faut considérer que l'article 2603 exclut le cumul des recours et oblige le tiers lésé à faire un choix (Isabelle Parizeau).  
(*Revue du Barreau*, Janv.-Fév. 1985).

Les réclamations frauduleuses. Interprétation de l'article 2574. Étude de la jurisprudence. L'assuré qui fait une déclaration menson-

gère au stade de sa déclaration de sinistre et preuve de perte devrait se voir refuser au moins toute indemnité ayant trait à une garantie spécifique. À suivre : l'interprétation de la Cour d'Appel dans cette affaire.

(*Regards*, Mars-avril 1985).

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**RECTIFICATIF**

Nous avons publié, dans le numéro de janvier 1985, avec la permission de l'auteur, un article paru dans *L'Argus*, intitulé « Comment un courtier voit son rôle sur le marché ». Il s'agissait d'une interview entre un représentant du journal *L'Argus* et M. Vincent Redier, président du groupe Le Blanc et De Nicolay. Or, en page 498, nous rapportons la question suivante, posée par *L'Argus* :

« Un réassureur suisse, M. Angelil, pense que les courtiers de réassurance devraient être rémunérés aux résultats. Qu'en pensez-vous ? »

Nous avons reçu une lettre de M. Angelil et celui-ci nous signale qu'il n'a pas émis une telle opinion. Il appert qu'on aurait dû lire « *souscripteur* » au lieu de « courtier de réassurance » ; ce qui donne un tout autre aspect à la question.

R.M.