

WESTWARD / CA ENGAGEMENT & RULE 216



THE ISSUE

Clients engage Westward to **design, implement and maintain** insurance solutions for tax and estate planning. Clients pay Westward an engagement fee for these services.

In turn, Westward engages CAs to assist Westward with the **implementation** phase. Westward requires professional assistance to integrate the insurance planning with non-insurance services in areas such as corporate reorganizations, taxation and personal financial planning.

As a result, the CA has two engagements: (1) providing traditional services directly to the client, and (2) providing support services to Westward that are related to the same client. This is a legitimate arrangement designed to produce the best result for the client, however, the CA is required to manage these two engagements while complying with the professional code of conduct, including Rule 216 prohibiting referral fees.

The opinions expressed in this memorandum are strictly those of Westward Advisors Ltd. This memorandum is for information purposes only and is not legal or tax advice.



WESTWARD'S VIEWPOINT

The Referral Fee - Rule 216

Rule 216 in the BC and Ontario versions of the Rules of Professional Conduct (Quebec Rule 39) states the following:

BC & Ontario Rule 216 / Corresponds to Quebec Rule 39 — A member ... shall not ... accept directly or indirectly from any person who is not a public accountant a commission or other compensation for a referral to a client of products or services of others.

BC Interpretation — From time to time, members may be asked by investment dealers and possibly insurance brokers to act as agents or sub-agents for the sale of securities or the placement of insurance. A member in public practice receives fees from clients for services which, in some cases, will include advice on the utilization of surplus funds and, often, counselling on insurance coverage. There is bound to be a conflict of interest between this position and that of acting as agent or sub-agent for the sale of securities or the placement of insurance. Acceptance by a practicing member of a commission, finder's fee, or other remuneration from third parties for such agency services would be incompatible with the principle of objectivity which is fundamental to our profession.

Ontario Interpretation — a wealth management company may engage a CA or CA firm to perform financial planning, taxation, estate planning and/or retirement planning services for its own clients. In this case, the wealth manager is itself the CA's client and will be invoiced by the CA and pay such invoices directly.

How CAs Comply with Rule 216

CAs adhere to Rule 216 by adopting the following best practices:

- Obtain an engagement letter with Westward for the services to be rendered.
- Disclose the Westward engagement to the client.
- Clearly establish what services are for the client's account and what services are for Westward's account.

How The Westward Engagement Works

Westward helps the CA comply with Rule 216 as follows:

1. Westward does not pay the CA a referral fee.
2. When the client engages Westward at the beginning of the **design** stage:
 - Westward makes it clear to the client in writing that all services rendered by the CA during the design stage are for the client's account.
 - The client is informed in writing that Westward will engage the CA at the beginning of the implementation stage if and when the client decides to implement the proposed solution.
 - Westward provides the CA with a sample disclosure letter for the CA to inform the client that the CA may be engaged by Westward in the future to help implement the solution, but services rendered by the CA to the client during the design stage are for the client's account.
3. When the client decides to **implement** the solution, Westward provides the CA with:
 - An engagement letter between the CA and Westward describing the services to be rendered, and the nature of the fees if the strategy is successfully implemented.
 - A sample disclosure letter from the CA to the client regarding the Westward engagement, requesting client consent in writing.
4. The CA invoices Westward for implementation services rendered once the implementation is completed.

Conclusion

Westward clearly defines the client's three stages of engagement with Westward (design, implementation and maintenance), the CA's role in each stage, and who is responsible for paying the CA's fee at each stage. This process complies with Rule 216. If you have questions regarding our practice, please contact us in writing at service@westwardadvisors.com.

The LifeStep Process is a step-by-step method that identifies potential clients, streamlines implementation and opens new revenue opportunities for advisors.

ROLES AND RESPONSIBILITIES



WESTWARD



CA / ADVISOR



CLIENT

The Discovery Process™

Westward evaluates facts and advises CA if a plan will benefit a client

CA prepares Preliminary Viewpoint on prospective client

Prospective client is anonymous until The Strategy Builder stage

The Strategy Builder™

Westward prepares plan for a client considered to be a strong candidate

If CA agrees that the plan is beneficial, a client meeting is arranged

Westward presents plan proposal to client and advisor outlining structure and benefits

The Strategic Implementor™

Underwriting Stage

Westward engaged by client; prepares insurance applications and fine tunes plan

Client decides to proceed and selects Westward engagement option

Implementation Stage

Westward implements plan

CA engaged by client to assist with implementation

Client pays CA to assist with plan implementation

Westward reimburses client for CA's implementation fees

Client repaid CA implementation costs

The Performance Optimizer™

Westward provides CA and client with annual review and next actions

Annual review contains journal entries for reporting purposes

Client can engage the CA to assist with plan maintenance

