

**Council of the Trust and Estate Section of the Colorado Bar Association
Notice of and Agenda for the May 3, 2023, Meeting**

To: Council Members
Trust and Estate Section of the Colorado Bar Association

From: Dylan Metzner
Secretary/Treasurer
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Notice of Meeting

The next monthly meeting of the 2022-2023 Council of the Trust and Estate Section of the Colorado Bar Association will be held:

Date and time: ***Wednesday, May 3, 2023 at 3:00 p.m.***

Place: 1290 Broadway, Suite 1700, Denver, CO 80203 Room West 1
or Call-In/Zoom

<https://cba-cle.zoom.us/j/83843741966?pwd=NXVOTEExdUxuQ0FrV0VXV3ZrU3hVQT09>

Meeting ID: 838 4374 1966

Passcode: 534100

Call-in: 16694449171

Minutes of Previous Meetings & Attachments

1. Minutes of the April 5, 2023 meeting of the Council
2. March 31, 2023 Financial Statements
3. Memorandum regarding the April 21, 2023CBA Real Estate Section Council Meeting
4. So Now You are A Personal Representative Brochure

Trust and Estate Section Council Agenda
May 3, 2023

In an attempt to adhere to the allotted meeting duration of one (1) hour and thirty (30) minutes, the Chair will exercise his/her prerogative to limit the time for any report or discussion on a topic to ten (10) minutes. This conforms to Robert's Rules of Order.

1. Review/approval of Minutes of the April 5, 2023 meeting of the Council
2. Chair's Report and Administrative Matters (Molly Zwerdinger)
3. Secretary/Treasurer's report (Dylan Metzner)
4. Tax Section Liaison (Aaron Burton)
5. Elder Law Section (Patrick Thiessen)
6. Real Estate Section Liaison (Chad Rounds)
7. Family Law Section Liaison (Kim Willoughby)
8. Statutory Revisions Committee (Jonathan Haskell)
9. Legislative Liaison (Steve Brainerd and Leia Ursury)
10. Legislative Update (Tyler Mounsey)
11. Council Notes (Kristin Dittus)
12. CLE/Estate Planning Retreat (Lauren da Cunha)
13. Orange Book Forms Committee (Rikke Liska)
14. Supreme Court's Rules and Forms Committee (Leia Ursury)
15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)
16. Justice Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)
17. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)
18. Colorado Estate Planning Handbook (David Johns)

19. Green Book (Josie Faix)
20. Trust & Estate Practice Support Committee (Margrit Parker)
21. The Colorado Lawyer (Emily Bowman & David Kirch)
22. Communications Representative/Ambassador Program (Kayla Nelson)
23. Board of Governors Representative (Jonathan Haskell)
24. Miscellaneous/FYI
25. Adjournment

**Council of the Trust and Estate Section of the Colorado Bar Association
Minutes of the April 5, 2023, Meeting**

Council met on April 5, 2023 in person and via audio-conference. The meeting was called to order at approximately 2:52 p.m. by Molly Zwerdinger, Chair.

The following members of Council participated by Zoom/phone or in-person and constituted a quorum:

The following members of Council were present or participated remotely and constituted a quorum:

Molly Zwerdinger, Chair
Lauren da Cunha, Vice Chair
Dylan Metzner, Secretary/Treasurer
Tim Bounds, Immediate Past Chair
Kristin Piñeiro, Second-Year Member
Marianne Luu-Chen, Second-Year Member
Lindsay Andrew, First-Year Member
Kelianna Chamberlain, First-Year Member
Margot Edwards, First-Year Member

Also in attendance were:

Emma Baxter, CBA Staff
Amber Marchlowska, JEDI Chair
Chad Rounds, Real Estate Section Liaison
Jonathan Haskell, SRC Chair and Board of Governors Representative
Kayla Nelson, Communications Representative
Kristin Dittus, Council Notes
Leia Ursury, Legislative Liaison and Supreme Court's Rules and Forms Committee
Sandra Sigler, Chair of Civic and Community Affairs Committee
Victoria _____
Jody Davis
Dan
Melissa Schwartz
Cathie Giovannini

1. Review/approval of March 1, 2023 Minutes.

The draft of the March 1, 2023 minutes were approved unanimously.

2. Chair's Report and Administrative Matters (Molly Zwerdinger)

We have received a proposals for various table runners and the officers recommend a 60 inch table runner which costs \$150 not including taxes/shipping.

Molly Zwerdinger submitted a motion to use the Primary full CBA Logo with Section Name and order a 60 inch table runner such motion was duly seconded and passed unanimously.

3. Secretary/Treasurer's report (Dylan Metzner)

February 2023 Financials- ending balance of \$56,495 (\$1,549 less than the balance we had this time last year)

Dylan reviewed the Bylaws and the only reference to a "budget" is in Article III, which provides in part that "Council shall authorize all commitments or contracts which shall entail the payment of money and shall, by the adoption of a budget or otherwise, authorize expenditure of all moneys appropriated for the use or benefit of the Section." Dylan reported that he reviewed financials and related materials going back to the 2016/2017 year and it appears that Council has been authorizing the expenditures of moneys based on the current financial statements. Dylan stated that he would like to propose, as part of the annual officer transition, the outgoing Secretary/Treasurer meet with the incoming Secretary/Treasurer to discuss revenues and expenditures for the prior year so the incoming Secretary/Treasurer can prepare a budget for the coming year. A majority of dues revenue is reported in July so it is probably best to have the Secretary/Treasurer hold off on finalizing a budget for submission to Council, if one is desired, until August for discussion in the September meeting.

Dylan reviewed the proposed Budget Template with Council.

4. Tax Section Liaison (Aaron Burton)

No report.

5. Elder Law Section (Patrick Thiessen)

Patrick Thiessen submitted the following report via email

I have scheduled a phone call with Amy Kho about her possibly being a co-liaison. I am not sure but this might need to be approved by Elder Law.

There was discussion at Elder Law this morning about creating a new subcommittee to analyze issues regarding court visitors in guardianship and conservatorship cases.

Elder Law is still looking to fill its executive council seats and is taking applications.

There was no Elder Law executive council meeting today and no Elder Law CLE. The May CLE is on supportive decision making.

6. Real Estate Section Liaison (Chad Rounds)

No report other than what was provided in the Memorandum that was attached to the April Agenda.

7. Family Law Section Liaison (Kim Willoughby)

No report.

8. Statutory Revisions Committee (Jonathan Haskell)

UCPDA Passed by legislature so no need for council to take any action on the proposal approved by SRC in March.

9. Legislative Liaison (Steve Brainerd Leia)

No report.

10. Legislative Update (Tyler Mounsey)

No report.

11. Council Notes (Kristin Dittus)

JEDI committee submitted a great Article that was included in April's Council Notes.

12. CLE/Estate Planning Retreat (Lauren da Cunha)

111 People registered so far.

Jody and Dan presented a 2022 Report and 2023 Funding Request. The 2022 contribution from the Section was \$7,500. Last year's program was an out of pocket loss to CBA/CLE of \$12,100 which can be attributed to the cost of food and beverage at the hotel.

CBA/CLE requested \$7,500 to support the estate planning retreat.

Upon motion duly made and seconded, which was passed unanimously Council approved \$7,500 for the 2023 Retreat but Council also asks for more transparency re costs and sponsorships from the CBA/CLE which Council would like made by the CBA/CLE to the CLE Committee.

Council members need to provide items for silent auction. We need these items by next council meeting! Leia and Kristin will be working on this...email description and price to Leia by May 4

13. Orange Book Forms Committee (Rikke Liska)

Committee is working on notes on use for beneficiary deed of trust.

14. Supreme Court's Rules and Forms Committee (Leia Ursury)

No update.

15. Civic and Community Affairs Joint Committee of the Elder Law Section (Sandra Sigler)

Kayla will email Personal Representative draft brochure to Council prior to May meeting and the Joint Committee will be asking for a vote during our May meeting.

16. Justice Equity, Diversity, and Inclusivity Committee (Amber Marchlowska)

JEDI working on overview pamphlet for T&E and Elder Law practice areas will be finalizing but may not be finalized until summer so may need an over the summer vote.

DU event that was scheduled for today but that is being pushed out to October.

JEDI would like to Sponsor May's T&E Happy Hour

Motion duly made seconded and passed unanimously that JEDI can allocate the remaining \$500 in funds it has to T&E Happy Hour that will be sponsored by JEDI.

17. Probate Trial and Procedures Committee (Marcie McMinimee & Lindsay Andrew)

2 new subcommittees have been created. First subcommittee is looking at possible amendments to the wrongful death statute to provide that that personal representative may bring claim (either in lieu of current spouses/heirs or in addition to current spouses/heirs). The second subcommittee is looking at guardianships and conservatorships and bringing in court visitors.

18. Colorado Estate Planning Handbook (David Johns)

None.

19. Green Book (Josie Faix)

None.

20. Trust & Estate Practice Support Committee (Margrit Parker)

Carolyn is running CLE program on Estate Planning. .

21. The Colorado Lawyer (Emily Bowman & David Kirch)

None.

22. Communications Representative/Ambassador Program (Kayla Nelson)

Events at both law schools went great. DU in March 6-7 employers in person and 20 students. Huge success and DU wants us back. CU was a hybrid with T&E/Elder Law and small mid-size firms and five employers and some interest but not much no T&E/Elder law society club.

23. Board of Governors Representative (Jonathan Haskell)

None.

24. Other Business

ADR seeking proposals for speakers for its fall event.

ADJOURNMENT

The meeting was adjourned at 3:53 p.m. The next Council meeting will be held May 3, 2023.

Respectfully submitted

/s/ Dylan Metzner, Secretary

Colorado Bar Association
Trust & Estate
For the Nine Months Ending March 31, 2023

		March	YTD	Budget	Variance	%	Last FY
Beginning balance	01-3160-31600		\$43,092.16		\$43,092.16	0%	\$38,426.81
Trust & Estate Section							
Revenue							
Dues Income Section	01-4050-31600	105.00	32,685.00		32,685.00	0%	33,480.00
Registration Income	01-4501-31600		2,280.00		2,280.00	0%	
Total Revenue Trust & Estate Sect		105.00	34,965.00		34,965.00	0%	33,480.00
Expenses							
Other Expense	01-5000-31600		(1,000.00)		(1,000.00)	0%	
AWARDS	01-5007-31600		(28.54)		(28.54)	0%	
Meals (Not travel related)	01-5491-31600	(730.24)	(10,278.95)		(10,278.95)	0%	(5,103.70)
Administration Fee	01-5494-31600	(1,110.38)	(9,993.42)		(9,993.42)	0%	(9,701.64)
Grants/Contributions	01-5500-31600		(5,750.00)		(5,750.00)	0%	
Total Expenses Trust & Estate Sec		(1,840.62)	(27,050.91)		(27,050.91)	0%	(14,805.34)
Statutory Revisions Committee							
Revenue							
Rev. Elderlaw Joint Task Force							
Rev. Uniform POA Act							
Rev. Uniform Trust Code							
Expenses							
Exp. Elderlaw Joint Task Force							
Exp. Uniform POA Act							
Exp. Uniform Trust Code							
CLE							
Revenue							
Revenue Joint CLE							
Revenue CLE Retreat							

Colorado Bar Association
Trust & Estate
 For the Nine Months Ending March 31, 2023

	March	YTD	Budget	Variance	%	Last FY
Revenue CLE Section Only						
Expenses						
Expenses Joint CLE						
Expenses CLE Retreat						
Expenses CLE Section Only						
Council Notes						
Revenue						
Expenses						
Community & Civic Affairs						
Revenue						
Contributions 01-4500-31613		\$3,500.00		\$3,500.00	0%	
Total Revenue Community & Civic		3,500.00		3,500.00	0%	
Expenses						
Rules & Forms Committee						
Revenue						
Expenses						
Orange Book Forms						
Revenue						
Expenses						
Local Liaison						
Revenue						
Expenses						
Uniform Trust Code						
Revenue						
Expenses						

Colorado Bar Association
Trust & Estate
 For the Nine Months Ending March 31, 2023

	March	YTD	Budget	Variance	%	Last FY
Transfer Deposits						
Revenue						
Expenses						
Admin. Chair						
Revenue						
Expenses						
Estate Planning Handbook						
Revenue						
Expenses						
Admin Council Dinner						
Revenue						
Expenses						
Legislative Liaison						
Revenue						
Expenses						
Internet Editor						
Revenue						
Expenses						
Technology Committee						
Revenue						
Expenses						
Real Estate Liaison						
Revenue						
Expenses						

Colorado Bar Association
Trust & Estate
For the Nine Months Ending March 31, 2023

		<u>March</u>	<u>YTD</u>	<u>Budget</u>	<u>Variance</u>	<u>%</u>	<u>Last FY</u>
Green Book							
Revenue							
Expenses							
The Colorado Lawyer							
Revenue							
Expenses							
T&E Diversity Committee							
Revenue							
Misc Income	01-4299-31628		\$1,000.00		\$1,000.00	0%	
Total Revenue Diversity Committe			1,000.00		1,000.00	0%	
Expenses							
Judicial Liaison							
Revenue							
Expenses							
Meals (Not travel related)	01-5491-31615		(746.50)		(746.50)	0%	
Total Expenses Judicial Liaison			(746.50)		(746.50)	0%	
Member Vouchers							
Expenses							
T&E Young Lawyer Society							
Revenue							
Expenses							
Beginning Balance	01-3160-31600		43,092.16		43,092.16	0%	38,426.81
Total Revenue All Sources	01-4???-316??	105.00	39,465.00		39,465.00	0%	33,480.00
Total Expense All Sources	01-5???-316??	(1,840.62)	(27,797.41)		(27,797.41)	0%	(14,805.34)
Ending Balance		(1,735.62)	54,759.75		54,759.75	0%	57,101.47

KIRCH ROUNDS BOWMAN & DEFFENBAUGH PC
MEMORANDUM

TO: CBA Council of the Trust and Estate Section

FROM: Chad Rounds

RE: Summary of 04/21/23 CBA Real Estate Section Council Meeting

DATE: 04/21/23

I attended the CBA Real Estate Section Council ("RESC") meeting on 04/21/23 by Zoom. The following is my report on matters addressed which the CBA Trust and Estate Section Council ("TESC") might find of interest:

The meeting took place in Ft. Collins.

Amendments to bylaws for affordable housing subcommittee were approved by RESC. It was felt necessary because affordable housing has become such a hot topic.

Legislation update:

Colorado Poverty Law Project has been behind many of these progressive landlord tenant bills which have been introduced in the legislature this session. Many bills will die on the calendar because of the backlog, but enough of them will pass to significantly change the landlord tenant relationship.

A suggestion was made for the CBA Real Estate Section to engage the attorney for Colorado Poverty Law Project to demonstrate that the Section is not trying to be bias toward landlords, but instead attempting to preserve real estate law in Colorado and to point out unintended consequences of many of the proposed bills.

HB23-1190 - Affordable Housing Right of First Refusal: It gives right of first refusal on multi-family or mixed-use property in Colorado to local governments. Local governments would have 14 business days to exercise the right, but in fact could hold up the sale for a much longer period of time. Also, the local governments do not have the resources to administer such a program or the funds to purchase these properties. **After a lot of hard work by the CBA team, a number of helpful amendments have been added to this bill and hopefully more to come before its eventual passage.**

S23-213 - Concerning State Land Use Requirements: There are concerns with this bill as it pertains to real estate law and property rights. It opens the door to statewide zoning through a centralized state government agency. Zoning is traditionally and constitutionally [*Town of Telluride v. Lot Thirty-Four Venture, L.L.C.*, 3 P.3d 30, 37 (Colo. 2000)] the jurisdiction of local governments.

Are There Any Protections for the Decedent's Family?

Colorado law provides protections for a surviving spouse and minor and dependent children. If you have any questions about a spouse or surviving child's rights, consult with an attorney.

Can You Be Compensated for Your Work as Personal Representative?

Colorado law allows a personal representative to receive reasonable compensation from the estate for their work as personal representative. If you decide to seek compensation, keep a detailed record of tasks performed and the time spent. In general, if you or others pay estate expenses from your personal funds, the estate may reimburse you if there are sufficient funds.

How and When Can You Close the Estate?

The estate does not terminate automatically. Just as you chose how to open the estate, you may choose to close informally or formally. Please see the Probate in Colorado brochure for more information on these options. Again, an attorney can advise on which type of closing may be the best choice for a particular estate.

When Can You Be Found Liable for Your Actions as Personal Representative?

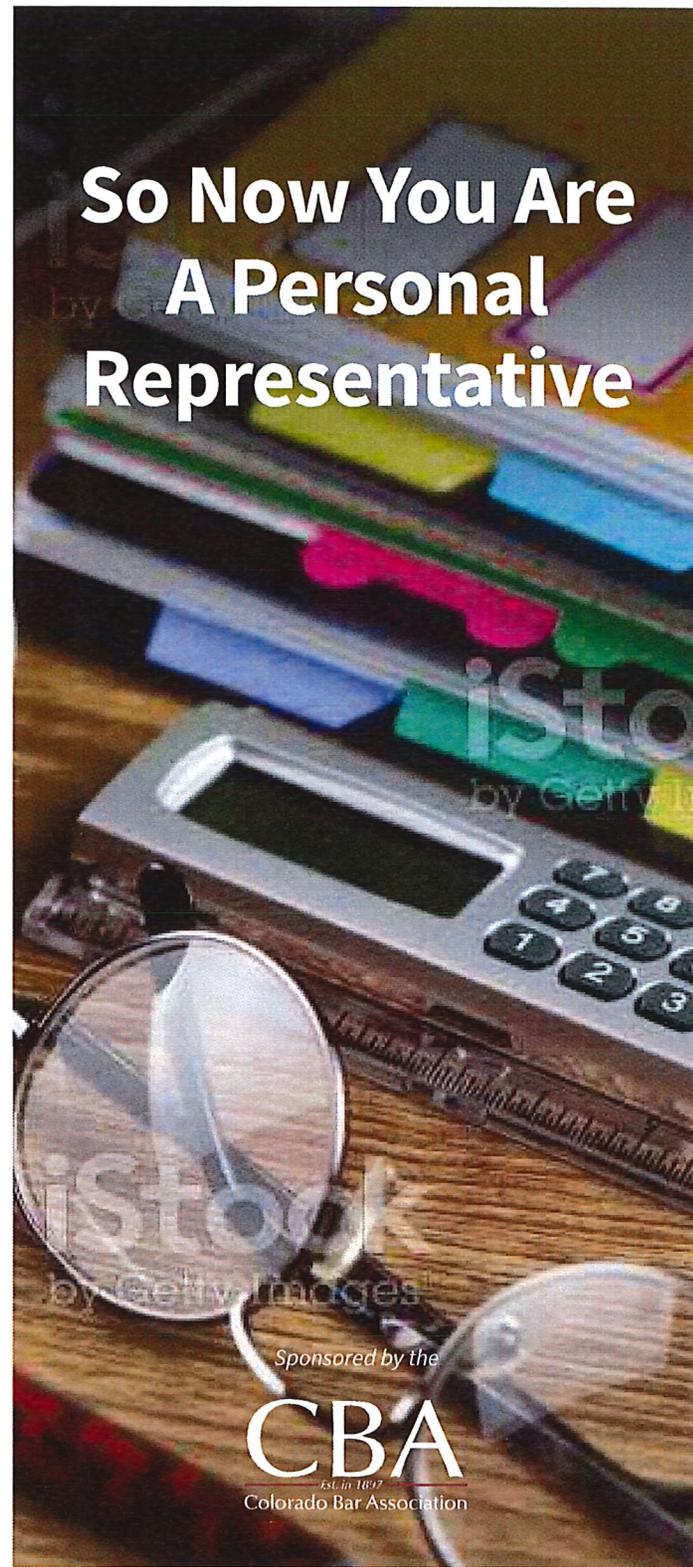
- You fail to exercise reasonable care and skill in managing the property of the estate.
- You do something you should not have done, such as mishandle estate funds, fail to follow the will or breach your duties as personal representative.
- You fail to prudently invest or preserve the assets of the estate, which causes a loss to the beneficiaries.

Additional Resources

- *Probate in Colorado* brochure
- *What to Do When Someone Dies* brochure
- *Colorado Senior Law Handbook*
- Colorado courts website for Judicial Department Forms and Instructions

This brochure is published as a public service by the Colorado Bar Association and was authored and is reviewed and updated as needed by the Civic and Community Affairs Committee, a Joint Subcommittee of the Trust & Estate and Elder Law Sections. Its purpose is to provide general information about the topic contained herein, which is a common legal issue that may come up in estate planning, probate, and/or elder law cases. The information in this brochure is current as of April 2023. You should ensure that there have not been any changes in the law that may affect your matter, which may require consulting with an attorney.

So Now You Are A Personal Representative



Sponsored by the

CBA
EST. IN 1897
Colorado Bar Association

A personal representative is an individual appointed by the Court to administer an estate. A personal representative may be referred to as an “executor” in some states. If the deceased person (“decedent”) had a will, they may have nominated a personal representative in the document. If the decedent died without a will, the process to be appointed as personal representative is governed by Colorado law.

What is the Purpose of a Personal Representative?

A personal representative carries out the wishes of the decedent regarding distribution of their assets and completes the administration of the estate. Assets are distributed either according to the terms of the decedent’s will, or by Colorado law.

What Can You Do Prior to Your Appointment?

If you are nominated as personal representative in a will, you have the authority, before you are appointed by the Court, to carry out the decedent’s written instructions for their body, funeral, and burial arrangements. You may begin to protect and safeguard the deceased’s assets. Do not remove or distribute assets before opening the estate—**do not sell, give away, or otherwise dispose of any of the decedent’s property at this point in time.** These activities cannot be carried out until after an estate has been opened and the Court has appointed you as personal representative.

What are Your Duties and Responsibilities as a Personal Representative?

A personal representative has the following general duties:

- Duty of impartiality: You must treat all persons with an interest in the estate the same, and not favor certain parties over others.
- Duty of undivided loyalty: You must not favor your own interests above those of the estate or other parties.
- Duty to administer the estate with care and in accordance with Colorado law.

A personal representative has the following general responsibilities:

- Collecting and inventorying the assets of the estate;
- Managing the assets of the estate during the probate process;
- Paying bills, creditors and taxes;
- Making distributions to the heirs or devisees of the estate; and
- Closing the estate after your responsibilities have been completed.

As personal representative, you’re responsible for managing the estate. If you have any questions about your duties and responsibilities as a personal representative, you should consult an attorney.

How Do You Carry Out Your Responsibilities?

Once you have been appointed as personal representative, the Court will issue you Letters Testamentary or Letters of Administration that prove that you have authority to act on behalf of the estate. When you are administering the estate, banks, insurance companies and other third parties may want to see your Letters before allowing you to conduct estate business.

After your appointment as personal representative, you should:

- Prepare the Information of Appointment form and send it to all heirs and devisees within 30 days of your appointment. You must also file this document with the Court.
- Open an estate bank account to hold the estate’s funds. You will first need to obtain an EIN (tax ID number) from the Internal Revenue Service (IRS) for the estate.
- **Set up an estate accounting system at the beginning of your administration.** For your protection, keep records of all cash and other financial transactions of the estate. Beneficiaries are entitled to a written accounting of all estate transactions.
- Prepare a written inventory of the estate’s assets within three months of appointment. You may

need to file the inventory with the Court and provide copies to heirs and devisees. Maintain all documentation to support the values reported in the inventory.

- Arrange for insurance coverage of estate assets to protect them against damage or loss.
- Sell or distribute real estate only with a “Personal Representative’s Deed.”
- Pay expenses, creditors, taxes and beneficiary distributions from the estate in the order of priority listed in Colorado statute.
- Investigate whether there are any outstanding promissory notes or other obligations that are owed to the decedent.

How Do You Deal with the Estate’s Creditors?

Probate provides a specific process for appropriately dealing with creditors. If you are faced with multiple creditors and are unsure of how to proceed, an attorney can advise you.

- Creditors normally have one year from date of death to present a claim to be paid. Publishing a Notice to Creditors in the newspaper may reduce the creditors’ period to four months from date of first publication.
- A claim may be mailed to you or filed with the Court. No specific form is required: a bill that comes in the mail can be a properly presented claim, if it provides sufficient detail. If you have questions about a claim’s validity, you may wish to consult an attorney.
- If a valid claim is properly presented, it will need to be paid, in priority order, if there are sufficient assets in the estate.
- If you disagree with a claim, you have a limited period of time to disallow the claim in Court. If you disallow the claim, the creditor has 63 days to challenge the disallowance.

Determine all of the estate’s creditors and confirm the creditors’ period has ended before paying any creditor claims.