

The Insolvency Act 1986

**Administrator's progress report**

Name of Company  
Dolphin Enterprises Europe Limited

Company number  
03850899

In the High Court of Justice Chancery Division, Manchester District  
Registry  
[full name of court]

Court case number  
853 of 2011

(a) Insert full name(s) and  
address(es) of  
administrator(s)

I / We (a) Charles MacMillan of Beever and Struthers, St George's House, 215-219 Chester Road  
Manchester M15 4JE

administrator(s) of the above company attach a progress report for the period

(b) Insert dates

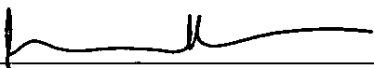
from

to

(b) 17 November 2011

(b) 2 April 2012

Signed

  
Joint / Administrator(s)

Dated

02/04/2012

**Contact Details:**

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Beever and Struthers, St George's House, 215-219 Chester Road, Manchester M15 4JE

Tel

DX Number

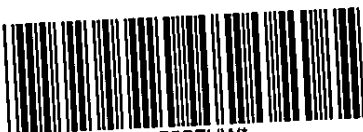
DX Exchange

When you have completed and signed this form please send it to the Registrar of Companies at

Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff

THURSDAY



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19/04/2012

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COMPANIES HOUSE

2-24-B

**Administrator's Final Progress Report**

**Dolphin Enterprises Europe Limited – In Administration**

**2 April 2012**

SATURDAY

COMPANIES HOUSE

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## 1 Statutory Information

Company name	Dolphin Enterprises Europe Limited (“the Company”)
Trading Name	Dolphin Music
Registered office	St George’s House, 215-219 Chester Road, Manchester M15 4JE
Former registered office	70-72 Evans Road, Speke, Liverpool L24 9PB
Registered number	03850899
Date of incorporation	30 September 1999
Trading address	70-72 Evans Road, Speke, Liverpool L24 9PB
Principal trading activity	Online retailer of music related goods
Administrator’s name	Charles MacMillan
Administrator’s address	Beever and Struthers, St George’s House, 215- 219 Chester Road, Manchester M15 4JE
Administrator’s date of appointment	17 May 2011
Court name and reference	High Court of Justice Chancery Division, Manchester District Registry – No 853 of 2011
Appointment made by	The director of the Company

## 2 Receipts and Payments Account

- 2 1 I have now completed my administration of the Company. My Receipts and Payments Account for all periods of the administration to 2 April 2012 is attached at **Appendix A**

## 3 Assets

The following assets have been realised during the course of the Administration -

### *Sale to S&T Audio Limited*

- 3 1 The majority of the Company’s assets were sold to S&T Audio Limited via a pre-packaged sale that was finalised on the date of my appointment. Full disclosure in relation to this sale has previously been provided to creditors in my letter dated 24 May 2011. A copy of this letter can be provided upon request.
- 3 2 This sale formed part of a wider transaction that included the assets of the Company’s sister company, Dolphin Music Retail Limited. The following assets of the Company were included in the sale -

<b>Asset</b>	<b>Estimated to Realise (£)</b>	<b>Consideration Received (£)</b>
Customer Contracts	1	1
Goodwill	1	1
Intellectual Property	214,997	214,997
Equipment	25,000	25,000
Stock	90,000	90,000
Work-in-Progress	1	1
<b>Totals</b>	<b>330,000</b>	<b>330,000</b>

***Bank of Scotland Monies Received***

- 3 3 A balance of £71,662 has been received from the Company's former bankers Bank of Scotland. This balance represented debtor monies that were due to S&T Audio Limited. As such, it was paid across and is contained in the 'Payments to S&T Audio Limited' balance of £72,897 in the receipts and payments account.

***Debtors (Pre-Appointment)***

- 3 4 The Company's records showed that debtors with a book value of £14,544 were owed to the Company. Due to the nature of insolvency and the age of some of these debts, a general provision of 25% was allocated to these debtors and an amount of £10,908 was estimated as being realisable.
- 3 5 During the Administration £11,704 has been received in respect of the Company's ledger, of which £997 has been received in the period since 17 November 2011. Of these £1,235 were proved to belong to S&T Audio Limited, therefore, were paid across and are included in the 'Payments to S&T Audio Limited' balance of £72,897 in the receipts and payments account.
- 3 6 Several debtors remain unpaid, however, the majority of these are disputed and will therefore not be realised.

***ROT Surplus***

- 3 7 One of the Company's creditors proved to hold a valid retention of title over goods supplied to the Company. After collecting goods they owned and re-selling them, the creditor accounted to the administration with a surplus of £137 that was over their initial claim.

***Bank Interest Gross***

- 3 8 Bank interest of £74 has accrued on funds held by the administrator during the course of the administration, of which £44 has been received in the period since 17 November 2011.

**4 Liabilities**

***Secured Liabilities***

- 4 1 An examination of the Company's mortgage register held by the Registrar of Companies, showed that the Company has granted a debenture to the following parties -

Secured Creditor	Debenture Created	Debenture Registered
AFM Small Firms Fund Limited	09/08/2007	11/08/2007
Bank of Scotland Plc	13/11/2007	14/11/2007
North West Transitional Loan Investment Fund	16/11/2009	18/11/2009

- 4 2 All of the above debentures incorporate a fixed and floating charge over the assets of the Company, however, the Bank of Scotland Plc's ("the Bank") charge ranks ahead in accordance with deed of priority, signed by the Bank and all prior charge holders

***Preferential Creditors***

- 4 3 There are no preferential creditors in this matter

***Unsecured Creditors***

- 4 4 The statement of affairs included unsecured creditors with an estimated total liability of £1,519,885 I have received claims from 40 creditors at a total of £932,512 I have not received claims from 57 creditors with original estimated claims in the statement of affairs of £357,205
- 4 5 A list of all creditors that are yet to prove their claim is attached at **Appendix D**, together with a Statement of Claim Form Creditors that have not yet proven should do so as a matter of urgency in order to be considered for any dividend paid Creditors who do not submit their claim shortly run the risk of being excluded from any distribution

**5 Summary of the Administrator's Proposals**

- 5 1 As previously advised an Administrator must perform their functions with the purpose of achieving one of the following objectives -

- 5 1 1 Rescuing the company as a going concern
- 5 1 2 Achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in Administration)
- 5 1 3 Realising property in order to make a distribution to one or more secured or preferential creditors

- 5 2 The above strategies are listed in order of priority and one must be proved not possible before moving to the next The strategy of this Administration is that of achieving a better realisation for creditors as a whole than would have been likely if the Company were wound up (without first being in Administration)

- 5 3 My Report and Statement of Proposals were approved at a meeting of creditors held on 21 July 2011 subject to the following modifications -

- Pre appointment fees and expenses unpaid at the commencement of administration may only be paid to the extent permitted by R2 33 IA 1986 The administrator will provide creditors with a detailed account of such expense paid from administration funds in accordance with R2 33 (2B) IA 1986
- Pre appointment fees and expenses not payable within R2 33 IA 1986 shall rank as an

unsecured claim alongside other ordinary creditors

## **6 Steps Taken During the Administration**

- 6.1 As stated above, I realised most of the assets of the Company at the outset of the Administration by way of a pre-packaged sale to S&T Audio Limited
- 6.2 In addition, there was potential for a refund to become due from the Company's merchant services provider, First Data. First Data has been contacted on several occasions regarding this, however, I have been unable to get a satisfactory response from them. Legal action renders this uneconomic to continue to pursue given the time that has already been expended.
- 6.3 During the course of the administration I have continued to pursue the Company's book debts and this has been brought to a successful conclusion.

## **7 Outcome**

- 7.1 Given the success of book debt realisations it is now expected that a dividend will be paid to the Company's unsecured creditors. As such, the Company will be moved to creditors' voluntary liquidation to facilitate this.

## **8 Investigation into the Affairs of the Company**

- 8.1 I undertook an initial investigation into the Company's affairs to establish whether there were any potential asset recoveries or conduct matters that justified further investigation, taking account of the public interest, potential recoveries, the funds likely to be available to fund an investigation, and the costs involved.
- 8.2 There were no matters that justified further investigation in the circumstances of this appointment.
- 8.3 Within six months of my appointment as administrator, I was required to submit a confidential report to the Secretary of State to include any matters which have come to my attention during the course of my work which may indicate that the conduct of any past or present director would make him unfit to be concerned with the management of the company. I would confirm that my report has been submitted.

## **9 Pre-Administration Costs**

- 9.1 My proposals sought authorisation to pay the following pre-appointment costs:

Cost	£
Agent's Fees (Sanderson Weatherall LLP)	3,000.00
Legal Fees (Gateley (Manchester) LLP)	10,204.25
Administrator's Remuneration	6,000.00

- 9.2 I can confirm that creditors approved these pre-appointment costs subject to the following modification:

"Pre- appointment fees and expenses unpaid at the commencement of administration

may only be paid to the extent permitted by R2 33 Insolvency Rules 1986. The Administrator will provide creditors with a detailed account of such expenses paid from administration funds in accordance with R2 33(2B) Insolvency Rules 1986.

- 9.3 Full disclosure in relation to pre-appointment fees and expenses was made to creditors in my report and statement of proposals dated 1 July 2011.
- 9.4 Legal fees relate to advice regarding the sale of the business and assets of the Company, including the production of the relevant sale agreement. It also relates to the production and execution of the formal documentation required to bring about my appointment.
- 9.5 Agent fees relate to obtaining independent professional valuations of the Company's business and assets, which was necessary to ensure proper value was obtained.
- 9.6 Pre-appointment administrator's remuneration relates to work undertaken in advising the Company of its options and marketing the Company's business and assets for sale. Please note that these time costs were both incurred and paid pre appointment.

## **10 Administrator's Remuneration**

- 10.1 My remuneration was previously authorised by creditors on 21 July 2011 to be drawn on a time cost basis. My time costs to 2 April 2012 amount to £44,195.50, which represents 296 hours at an average hourly rate of £149.31. Of this, £11,470 was charged in the period between 17 November 2011 and 2 April 2012, which represents 104.7 hours at an average hourly rate of £109.55.
- 10.2 I have drawn £43,441.90 to date, of which £14,000 was drawn in the period between 17 November 2011 and 2 April 2012. A schedule of my time costs incurred to date is attached at **Appendix B**.
- 10.3 A description of the routine work undertaken in the administration to date is as follows:

### **10.2.1 Administration and Planning**

- Preparing the documentation and dealing with the formalities of appointment
- Statutory notifications and advertising
- Preparing documentation required
- Dealing with all routine correspondence
- Maintaining physical case files and electronic case details on IPS case management software
- Review and storage
- Case bordereau
- Case planning and administration
- Preparing reports to members and creditors
- Convening and holding meetings of members and creditors

### **10.2.2 Cashiering**

- Maintaining and managing the administrator's cashbook and bank account
- Ensuring statutory lodgments
- Compliance with tax lodgment obligations

### **10.2.3 Creditors**

- Dealing with creditor correspondence and telephone conversations
- Preparing reports to creditors



- Maintaining creditor information on IPS case management software
- Reviewing, and adjudicating on if necessary, proofs of debt received from creditors

#### *10 2 4 Investigations*

- Review and storage of books and records
- Prepare a return pursuant to the Company Directors Disqualification Act
- Conduct investigations into suspicious transactions
- Review books and records to identify any transactions or actions an administrator may take against a third party in order to recover funds for the benefit of creditors

#### *10 2 5 Realisation of Assets*

- Corresponding with debtors and attempting to collect outstanding book debts
- Liaising with the company's bank regarding the closure of the account
- Insurance of the Company's assets
- Instructing and corresponding with agents appointed to value and sell the Company's assets

10 4 A copy of "A Creditors' Guide to Administrators' fees published by the Association of Business Recovery Professionals can be downloaded from the ICAEW website ([www.icaew.com](http://www.icaew.com) – select 'Technical resources' 'Insolvency' 'Creditors' guides' and from underneath the heading 'Creditors' guides England and Wales – effective from 6 April 2010' select 'A creditors' guide to administrators' fees') If you would prefer this document to be sent to you in hard copy please contact us and we will forward a copy to you

10 5 Further information in relation to expenses can be found at **Appendix C**

### **11 Further Information**

11 1 An unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question) request further details of my remuneration and expenses, within 21 days of receipt of this report Any secured creditor may request the same details in the same time limit

11 2 An unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the unsecured creditors (including the creditor in question), apply to court to challenge the amount and/or basis of my fees and the amount of any proposed expenses or expenses already incurred, within 8 weeks of receipt of this report Any secured creditor may make a similar application to court within the same time limit

### **12 Dividend Prospects**

#### *Secured Creditors*

12 1 The Bank has received has received payment of £214,999 in respect of its fixed charge over the Company's assets It has also received £44,313 in respect of its floating charge over the Company's assets The Bank has therefore received a total dividend of £259,312 and has now been paid in full

12 2 It should also be noted that the Bank has had the benefit of a HMRC bond of £10,000, which was received into the Company's former trading account shortly after my appointment This had the



effect of reducing the amount that was due to the Bank

- 12 3 There have been insufficient asset realisations to enable a dividend to be paid to the Company's other two secured creditors detailed in section four above

***Preferential creditors***

- 12 4 There are no preferential creditors in this matter

***Unsecured Creditors***

- 12 5 It appears likely that a dividend will be payable to unsecured creditors and accordingly the Company is being placed into creditors' voluntary liquidation to facilitate the distribution. The quantum of this dividend has not yet been finalised, however, it is not expected to exceed two pence in the pound
- 12 6 As previously advised, the company gave a floating charge to three creditors as listed in section four above. As all of these charges post-date the introduction of the Enterprise Act 2002, being 15 September 2003, the prescribed part provisions will apply. On the basis of realisations to date, together with estimated future realisations, and after taking into account the costs of the administration to date, the net property of the company is £29,172, and I estimate that the prescribed part of the net property for unsecured creditors is £8,834 41. However, these estimates do not take into account the future costs of any subsequent liquidation which would reduce the amount of the company's net property

**13 Summary**

- 13 1 The administration is now complete and my files will be closed as approved in the proposals
- 13 2 Should you have any queries regarding this matter please contact Simon Monks on 0161 838 1913

Yours faithfully  
For and on behalf of  
Dolphin Enterprises Europe Limited



**Charles MacMillan**  
***Administrator***



**Receipts and Payments Account****Appendix A**

<b>SOA Value £</b>		<b>17/11/2011 to 02/04/2012 £</b>	<b>17/05/2011 to 02/04/2012 £</b>
<b>SECURED ASSETS</b>			
1 00	Customer Contracts	-	1 00
1 00	Goodwill	-	1 00
214,997 00	Intellectual Property	-	214,997 00
		-	214,999 00
<b>SECURED CREDITORS</b>			
(214,999 00)	Bank of Scotland	-	(214,999 00)
		-	(214,999 00)
<b>FINANCE AND HIRE PURCHASE AGREEMENTS</b>			
72,806 00	Leased Assets	-	-
(80,150 00)	Leased Assets (Amounts Owing)	-	-
		-	-
<b>ASSET REALISATIONS</b>			
-	Bank Interest Gross	64 87	93 90
-	Bank of Scotland Monies Received	207 59	71,869 62
10,907 64	Debtors (Pre-Appointment)	996 87	11,704 06
25,000 00	Equipment	-	25,000 00
-	ROT Surplus	-	137 18
90,000 00	Stock	-	90,000 00
1 00	Work In Progress	-	1 00
		1,269 33	198,805 76
<b>COST OF REALISATIONS</b>			
-	Administrator's Remuneration	(14,000 00)	(43,441 90)
-	Advertisements	(20 00)	(40 00)
-	Agents / Valuers Fees	(250 00)	(3,250 00)
-	Legal Disbursements	-	(204 25)
-	Legal Fees	-	(15,048 00)
-	Mileage	-	(58 10)
-	Payments to S&T Audio Limited	(72,897 03)	(72,897 03)
-	Statutory Advertising	-	(153 00)
		(87,167 03)	(135,092 28)
<b>FLOATING CHARGE CREDITORS</b>			
-	Claims	-	(44,313 48)
		-	(44,313 48)

Cont...../

Cont...../

UNSECURED CREDITORS			
(283,195 89)	HM Revenue and Customs	-	-
(1,087,648 46)	Unsecured Creditors	-	-
		-	-
EQUITY			
(500 00)	Ordinary	-	-
		-	-
(1,252,779 71)			<u>19,400 00</u>
REPRESENTED BY			
	AIB Current Account		16,546 00
	VAT Receivable		<u>2,854 00</u>
			<u>19,400 00</u>

## Time Analysis

## Appendix B

## 17 November 2011 to 2 April 2012

	Partner	Manager	Other Senior Professional	Assistants & Support Staff	Total Hours	Amount (£)	Average Rate (£)
Administration & Planning	3 00	2 10	28 40	6 70	40 20	5,216 00	129 75
Investigations	0 00	1 20	2 20	0 00	3 40	540 00	158 82
Realisation of Assets	0 00	0 00	7 00	8 80	15 80	1,500 00	94 94
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	2 80	8 50	34 00	45 30	4,214 00	93 02
Total Hours	3 00	6 10	46 10	49 50	104 70		
Amount (£)	870 00	1,355 50	5,532 00	3,712 50		11,470 00	109 55

## 17 May 2011 to 2 April 2012

	Partner	Manager	Other Senior Professional	Assistants & Support Staff	Total Hours	Amount (£)	Average Rate (£)
Administration & Planning	24 90	8 10	70 90	10 00	113 90	18,254 50	160 27
Investigations	0 00	3 20	5 30	0 00	8 50	1,372 00	161 41
Realisation of Assets	6 00	9 70	24 80	21 50	62 00	8,255 50	133 15
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	20 00	14 80	34 50	42 30	111 60	16,313 50	146 18
Total Hours	50 90	35 80	135 50	73 80	296 00		
Amount (£)	14,735 00	7,882 50	16,260 00	5,318 00		44,195 50	149 31

## Practice Fee Recovery Policy for Beever and Struthers

## Appendix C

### Charge Out Rates

Grade of staff	Current charge Out Rate per Hour (£)
Partner – appointment taker	290
Senior Manager/Manager	230
Senior Professional	120
Other Professional	75
Cashier	75

These charge-out rates charged are reviewed periodically and are adjusted to take account of inflation and the firm's overheads

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Each unit of time is 6 minutes. The work is recorded under the following categories:

- Administration and Planning
- Investigations
- Realisation of assets
- Creditors
- Trading

The officeholder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time cost basis a periodic report will be provided to any committee appointed by creditors or, in the absence of a committee, to the creditors. The report will provide a breakdown of the remuneration drawn and time costs incurred and will also enable the recipients to see the average rates of such costs.

### Agent's Costs

Charged at cost based upon the charge made by the Agent instructed, the term Agent includes:

- Solicitors/Legal Advisors
- Auctioneers/Valuers
- Accountants
- Quantity Surveyors
- Estate Agents

On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis.



<b>Name of Professional Advisor</b>	<b>Basis of Fee Arrangement</b>
Gateley (Manchester) LLP (legal advice)	Hourly rate and disbursements
AUA Insolvency Risk Services Limited (statutory bond)	Scale rate
Sanderson Weatherall LLP (valuation and disposal advice)	Hourly rate and disbursements

Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them

### **Disbursements**

In accordance with Statement of Insolvency Practice 9 (SIP9) the basis of disbursement allocation in respect of disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2.

Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case.

Category 2 expenses are incurred by the firm and recharged to the estate, they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full from the estate, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage.

It is the firm's policy that no category 2 disbursements will be recovered in this matter.

**Creditors Who Have Not Yet Proven****Appendix D**

<b>Creditor Name</b>	<b>Debt Per Statement of Affairs (£)</b>
Active Music (not factored)	5,709 00
Active Music Distribution (Eurofactor)	2,541 43
ADAM Audio UK	5,514 28
ADAM Audio UK	28,168 69
Arturia	1,075 91
Ashdown Design & Marketing Limited	7,916 97
Barnes and Mullins	2,451 48
Briggs Equipment UK Ltd	353 59
BT UK	107 74
eBay Europe S a r l	-
Eclipse Marketing Ltd	245 09
Electrovision	70 00
Elevator Ltd	-
EMD Music SA	6,678 02
Et Cetera Distribution	2,512 42
Federal Express Europe Inc	385 35
Fedex UK Limited- 042-115093 (LP Shop)	637 53
Fender GBI	5,063 08
First Data	28 74
Google	24,404 36
Hand in Hand	8,590 29
Home2Office	485 40
IK Multimedia	4,886 93
ING Lease (UK) Ltd	7,344 00
Irish Tax and Customs	-
Matt Jaggard	-
Korg UK Ltd	41,640 30
Lamba	3,158 42
Langtree PLC	7,722 10
Leisure Lynx Musical Accessories	6,660 84
Loud Technologies	6,182 91
MTS	45 25
Music Force Distribution	3,279 40
Music in Print	3,266 62
Music Industries Association	780 00
Music Shipping Company	553 32
Native Instruments	22,346 18
Netfranchise	500 00
Netsuite	13,966 17
Numark Alesis Europe Ltd	21,821 65
Orange Music Electronic Co Ltd	6,273 24

Dolphin Enterprises Europe Limited – In Administration

Palpak Corrugated Ltd	2,365 08
Percussion Plus	762 27
Premium Credit Limited	1,169 27
Roland UK Ltd	1,691 97
Sage (UK) Limited	358 90
Sonnox	197 40
Soundcraft	289 94
Sounds Online Europe	4,662 35
Synthax Audio (UK) Ltd- Factor 21	7,383 48
Tanglewood Guitar Company Ltd	6,249 70
Time & Space Distribution Limited	10,836 12
Vestax Europe Ltd	2,892 00
Vocalbooth	6,996 84
Wharfedale	171 36
XLN Audio AB	494 76
Yamaha Music UK Ltd	57,316 86
<b>Total</b>	<b>357,205.00</b>

**DOLPHIN ENTERPRISES EUROPE LIMITED - IN ADMINISTRATION  
CREDITOR'S STATEMENT OF CLAIM**

Name and address of creditor

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Amount claimed in the Administration

(Including VAT)

£ 

---

Signature of creditor

---

Name of creditor

---

Telephone

---

Fax

---

E-mail

---

Date

---

Please provide appropriate documentation in support of your claim

If you are registered for VAT the amount claimed should include VAT even if VAT bad debt relief has been claimed under the Value Added Tax Act 1994

Please return this form when you have completed it to Simon Monks at St George's House, 215-219 Chester Road, Manchester, M15 4JE

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Creditors registered for VAT may be able to claim VAT bad debt relief in accordance with Section 36 Value Added Tax Act 1994. In broad terms relief is available when the debt is six months old and "written off" by the creditor entering it on his VAT refunds-for-bad-debts-account

Claims lodged in the Administration should be gross, including any VAT element. If/when dividends are paid, creditors who have claimed VAT bad debt relief must apportion the dividend between VAT and the net element of their claim and account to HM Revenue & Customs for the VAT element through their VAT return.

Insolvency Practitioners have no role in administering VAT bad debt relief under the Value Added Tax Act 1994. Creditors who are uncertain how to claim should contact their VAT office or take professional advice.