

**BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE  
OF THE STATE OF TENNESSEE AT NASHVILLE**

<b>TENNESSEE SECURITIES DIVISION</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>File No.: 05-016</b>
	)	
<b>SHANKLIN CAPITAL MANAGEMENT, INC.</b>	)	
	)	
<b>Respondent.</b>	)	

---

**CONSENT ORDER**

---

The Tennessee Securities Division [the "Division"], and Shanklin Capital Management, Inc. ["SCMI"] agree to the entry of this Consent Order in accordance with T.C.A. §48-2-116 of the Tennessee Securities Act of 1980, as amended, T.C.A. §§48-2-101, et seq. [The "Act"], which states that the Commissioner from time to time may make such orders as are necessary to carry out the provisions of the Act.

**GENERAL STIPULATIONS**

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Consent Order is executed by SCMI for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent

Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. SCMI fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against SCMI for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed, nor does it preclude additional proceedings by the Commissioner against SCMI based upon these facts or transactions herein addressed by some other Division of the Department of Commerce and Insurance.

4. SCMI expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

#### **FINDINGS OF FACT**

5. The Tennessee Securities Act of 1980, as amended, T.C.A. §48-2-101, et seq. [the “Act”], places the responsibility for the administration of the Act on the Commissioner of Commerce and Insurance [“Commissioner”]. The Division is the lawful agent through which the Commissioner discharges this responsibility. T.C.A. §§48-2-115.

6. Shanklin Capital Management, Inc. (IARD #108628) maintains its business address at 1420 Osborne Street, Suite B16, P.O. Box 401, Humboldt, Tennessee 38343-0401. SCMI currently has an investment adviser registration application pending before the Division.

7. Dan P. Shanklin (“Shanklin”) maintains his business address at 1420 Osborne

Street, Suite B16, P.O. Box 401, Humboldt, Tennessee 38343-0401. Mr. Shanklin is the Chairman of SCMI and is also employed by the firm as an investment adviser representative.

7. SCMI was previously registered with the Division as an investment adviser from March 24, 1994 through December 31, 1998.

8. SCMI was a federally registered investment adviser from approximately July 13, 1998 through March 4, 2002. Because of its status as a federally registered investment adviser, SCMI was a notice-filing investment adviser on the state level.

9. SCMI withdrew its federal registration in March 2002 after the Securities Exchange Commission ["SEC"] found that the company no longer qualified for federal registration.

10. Since withdrawing its federal registration in 2002, SCMI has continued to conduct business as an investment adviser from and in the state of Tennessee although the company was not registered as an investment adviser with either the SEC or the Division.

11. SCMI has provided investment advisory services to one hundred sixty-two (162) clients during the period of time between March 2002 and the date of entry of this Order.

### **CONCLUSIONS OF LAW**

12. Pursuant to Tennessee Code Annotated Section 48-2-115(a), the responsibility for the administration of the Act is upon the Commissioner. The Division is the lawful agent through which the Commissioner discharges this responsibility.

13. T.C.A 48-2-112(a)(2)(B) states, in pertinent part, that the Commissioner by order

may deny, suspend, or revoke any registration under this part if she finds that the order is in the public interest, necessary for the protection of investors, and if she finds that the registrant, or in the case of a broker-dealer or investment adviser, any officer, director, or any person occupying a similar status or performing similar functions has willfully failed to comply with any provision of this part or a predecessor chapter or any rule or order under this part or a predecessor chapter, including, without limitation, any net capital requirements.

14. T.C.A. § 48-2-109(c) states, in pertinent part, that it is unlawful for any person to transact business from or in this state as an investment adviser unless the person is registered as an investment adviser under this part or required to register as an investment adviser pursuant to § 203 of the Investment Advisers Act of 1940, or the person's only clients in this state are insurance companies.

15. The averments in paragraphs 6 - 11 of this Consent Order, constitute acts by SCMI that would provide grounds under T.C.A. § 48-2-112(a)(2)(B) for the entry of an order of sanctions against the investment adviser.

16. T.C.A. § 48-2-109(f) states, in pertinent part, that it is unlawful for any person to employ an investment adviser representative to transact business from or in this state unless the person is registered as an investment adviser representative under this part.

17. The averments in paragraphs 6 - 11 of this Consent Order, constitute acts by SCMI that would provide grounds under T.C.A. § 48-2-112(a)(2)(B) for the entry of an order of sanctions against the investment adviser.

**ORDER**

**NOW, THEREFORE**, on the basis of the foregoing, and Shanklin Capital Management, Inc.'s waiver of its right to a hearing and appeal under the Tennessee Securities Act and Tennessee's Uniform Administrative Procedures Act, T.C.A. §§4-5-101 et seq., and the company's admission of jurisdiction of the Commissioner, the Commissioner finds that Shanklin Capital Management, Inc., for the purpose of settling this matter, admits the matters herein, has agreed to the entry of this Order and that the following Order is appropriate, in the public interest and necessary for the protection of investors.

**IT IS ORDERED**, pursuant to T.C.A. §48-2-116(a) of the Tennessee Securities Act that:

1. Shanklin Capital Management, Inc. shall fully comply with the Tennessee Securities Act, as amended, and all rules promulgated thereunder;
2. Shanklin Capital Management, Inc. shall be assessed a civil penalty in the amount of Ten Thousand Dollars (\$10,000.00) dollars. Said sum shall be due and paid in full upon execution of this document, in the following manner:

Payment #1 in the amount of \$1,000.00 due on or before 06/25/2005;

Payment #2 in the amount of \$1,000.00 due on or before 07/25/2005;

Payment #3 in the amount of \$1,000.00 due on or before 08/25/2005;

Payment #4 in the amount of \$1,000.00 due on or before 09/25/2005;

Payment #5 in the amount of \$1,000.00 due on or before 10/25/2005;

Payment #6 in the amount of \$1,000.00 due on or before 11/25/2005;

Payment #7 in the amount of \$1,000.00 due on or before 12/25/2005;

Payment #8 in the amount of \$1,000.00 due on or before 01/25/2006;

Payment #9 in the amount of \$1,000.00 due on or before 02/25/2006;

Payment #10 in the amount of \$1,000.00 due on or before 03/25/2006

Said civil penalty shall be paid by a check made payable to the Tennessee Department of Commerce and Insurance and mailed to the attention of:

**Broker-Dealer Registration Section  
Tennessee Securities Division  
500 James Robertson Parkway  
Nashville, Tennessee 37243**

3. The pending investment adviser registration application shall be made effective by the Division upon receipt of the first installment payment of the civil penalty obligation placed upon Shanklin Capital Management, Inc. by the entry of this Consent Order.

4. Any default in the payment of the civil penalty obligation assessed by this order shall serve as grounds for the revocation of the investment adviser registration authorized by this order.

**IT IS ORDERED** that this Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Shanklin Capital Management, Inc. for all violations of the Act alleged by the Tennessee Securities Division to have occurred because of the investment adviser's lack of registration during the period of time between March 2002 and the date of entry of this order.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Shanklin Capital Management, Inc.

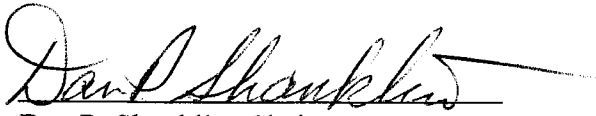
affirmatively state that it has freely agreed to the entry of this Consent Order, that it waives its right to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

ENTERED this 16<sup>th</sup> day of June, 2005.


Paula A. Flowers

Paula A. Flowers, Commissioner  
Department of Commerce and Insurance

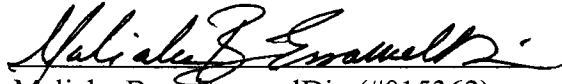
**APPROVED FOR ENTRY:**



Dan P. Shanklin, Chairman  
Shanklin Capital Management, Inc.



Daphne D. Smith, Assistant Commissioner  
Tennessee Securities Division



Maliaka Bass EssameDin (#015362)  
Counsel for Petitioner  
Department of Commerce and Insurance  
Davy Crockett Tower, 5<sup>th</sup> Floor  
500 James Robertson Parkway  
Nashville, Tennessee 37243  
(615) 741-2199