

IN THE MATTER OF

SONIC TECHNOLOGY PRODUCTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9252. Complaint, Feb. 25, 1992--Decision, June 21, 1994*

This consent order prohibits, among other things, a California company and its officers from representing that any ultrasonic pest control device can eliminate rodent or flea infestations, and from misrepresenting the results of any scientific studies regarding their ultrasonic pest control products.

Appearances

For the Commission: *Matthew D. Gold, David M. Newman and Sylvia J. Kundig.*

For the respondents: *Caswell O. Hobbs, Peter E. Halle and Patrick J. Pascarella, Morgan, Lewis & Bockius, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Sonic Technology Products, Inc., a corporation ("Sonic" or "respondent"), and W. Lowell Robertson and Brian Phillip Jobe, individually and as officers of said corporation (also each a "respondent"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Sonic is a California corporation, with its office and principal place of business located at 120 Richardson Street, Suite C, Grass Valley, California.

PAR. 2. Respondent W. Lowell Robertson resides in Nevada City, California. Respondent Robertson is and was at all times pertinent to this complaint an officer and director of Sonic. Individually or in concert with others, Robertson formulates, directs, controls, or participates in Sonic's business practices, including the acts and practices set forth herein.

PAR. 3. Respondent Brian Phillip Jobe resides in San Jose, California. Jobe is and was at all times pertinent to this complaint an officer and director of Sonic. Individually or in concert with others, Jobe formulates, directs, controls, or participates in Sonic's business practices, including the acts and practices set forth herein.

PAR. 4. Sonic has manufactured, advertised, promoted, offered for sale, sold, and distributed ultrasonic pest control devices, including those called the "PestChaser" and the "Pestrepeller."

PAR. 5. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for its ultrasonic pest control devices, including, but not necessarily limited to, the attached Exhibits "A" through "G."

PAR. 7. The advertisements and promotional materials referred to in paragraph six contain the following illustrations or statements:

(a) "... A high quality, well designed ultrasound generator like the PestChaser can quickly repel rodents from a sound protected area and can provide an ongoing repellant protection." (Exhibits A and D)

(b) "Get Rid of Unwanted Guests. PestChaser ultrasonic repeller can drive out disease bearing vermin that are making your home their home. Safe, economical and effective high frequency ultrasound can keep your premises free of rats, mice and other pests." (Exhibit B)

(c) A depiction of a rat inside of the universal null symbol (red circle with a red diameter line drawn). (Exhibit C)

(d) "In . . . tests we proved the PestChaser could repel rodents in actual user situations . . . and could keep them away." (Exhibit D)

PAR. 8. Through the use of the illustrations and statements referred to in paragraph seven, and others in advertisements and promotional materials not specifically set forth herein, respondents have represented, directly or by implication, that use of respondents' ultrasonic pest control devices eliminates rodent infestations.

PAR. 9. In truth and in fact, use of respondents' ultrasonic pest control devices does not eliminate rodent infestations. Therefore, the representation set forth in paragraph eight was and is false and misleading.

PAR. 10. The advertisements and promotional materials referred to in paragraph six contain the following illustrations or statements:

- (a) "Our PestChaser ultrasonic repeller can seriously reduce, if not eliminate a flea infestation problem in pet owners' homes." (Exhibit F)
- (b) "Backed by Field Test Studies, the PestChaser will dramatically reduce the dreaded flea infestations that will occur in the months ahead." (Exhibit G)
- (c) A depiction of a flea inside of the universal null symbol (red circle with a red diameter line drawn). (Exhibit C)

PAR. 11. Through the use of the illustrations and statements referred to in paragraph ten, and others in advertisements and promotional materials not specifically set forth herein, respondents have represented, directly or by implication, that use of respondents' ultrasonic pest control devices eliminates or reduces flea infestations, or repels fleas.

PAR. 12. In truth and in fact, use of respondents' ultrasonic pest control devices does not eliminate or reduce flea infestations; nor does it repel fleas. Therefore, the representation set forth in paragraph eleven was and is false and misleading.

PAR. 13. The advertisements and promotional materials referred to in paragraph six contain the following statements:

- (a) "Documented Testing..... Sonic Technology conducted extensive field tests ... to measure repellency [sic] effectiveness. In these tests we proved the PestChaser could repel rodents in actual user situations and could keep them away." (Exhibit D)
- (b) "We've got something that no one else has. . . A scientific Field Test Study that proves that our PestChaser ultrasonic repeller can seriously reduce, if not eliminate, a flea infestation problem in pet owners' homes." (Exhibit F)
- (c) "Backed by Field Test Studies, the PestChaser . . . will dramatically reduce the dreaded flea infestations that will occur in the months ahead." (Exhibit G)

PAR. 14. Through the use of the statements referred to in paragraph thirteen, and others in advertisements and promotional materials not specifically set forth herein, respondents have represented, directly or by implication, that competent and reliable scientific tests have established that the representations set forth in paragraph eight and paragraph eleven are true.

PAR. 15. In truth and in fact, no competent and reliable scientific tests have established that the representations set forth in paragraph eight and paragraph eleven are true. Therefore, the representation set forth in paragraph fourteen was and is false and misleading.

PAR. 16. The advertisements and promotional materials referred to in paragraph six contain the following statements:

(a) "Ultrasonic sound is most effective when combined with other pest control methods. This tool can increase the overall effectiveness of your efforts to eliminate pest problems." (Exhibit C)

(b) "The repellency [sic] effect of ultrasound can be used to drive pests toward safely placed traps and/or poisons; this use may increase the effectiveness of efforts to eliminate a pest problem." (Exhibit D)

(c) "RODENTS. Ultrasound can cause pain due to the high intensity sound pressure and will definitely create stress on the animals which causes them to avoid the sound protected area. The environmental stress effect can reduce their normal caution around placed traps and baits and increase the effectiveness of your eradication efforts." (Exhibit E)

PAR. 17. Through the use of the statements referred to in paragraph sixteen, and others in advertisements and promotional materials not specifically set forth herein, respondents have represented, directly or by implication, that use of respondents' ultrasonic pest control devices in conjunction with other pest control methods, such as traps and poisons, will increase the effectiveness of the user's efforts to eliminate or reduce infestations of rodents or other pests.

PAR. 18. Through the use of the statements set forth in paragraphs seven, ten and sixteen, and other statements contained in advertisements and promotional materials not specifically set forth herein, respondents have represented, directly or by implication, that, at the time they made the representations set forth in paragraphs eight, eleven and seventeen, they possessed and relied upon a reasonable basis for those representations.

PAR. 19. In truth and in fact, at the time respondents made the representations set forth in paragraphs eight, eleven and seventeen, respondents did not possess and rely upon a reasonable basis for those representations. Therefore, the representation set forth in paragraph eighteen was and is false and misleading.

PAR. 20. In providing the advertisements and promotional materials referred to in paragraph six to their dealers for the purpose of inducing consumers to purchase respondents' ultrasonic pest control devices, respondents have furnished the means and instrumentalities to those dealers to engage in the acts and practices alleged in paragraphs six through nineteen.

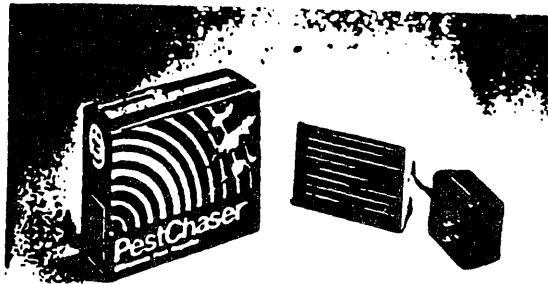
PAR. 21. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

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EXHIBIT A

NEW
IMMEDIATE RELEASE



A SOUND APPROACH TO RODENT CONTROL

PESTCHASER® RODENT REPELLER MODEL PC110S

The PestChaser® Ultrasonic Repeller generates high frequency sound which cannot be heard by human beings, farm animals or common pets.

This inexpensive non-toxic approach creates an acoustically uncomfortable environment which, given a choice, rodents and other affected pests will avoid. A high quality, well designed ultrasound generator like the PestChaser® can quickly repel rodents from a sound protected area and can provide an ongoing repellant protection.

PestChaser® is the only product of this type Registered for sale by the Canadian Agriculture Dept. for use against rats and mice. PCP Reg. No. 19674. Three year warranty. U.L. Listed. List \$34.95.

MANUFACTURED AND DISTRIBUTED BY:
SONIC TECHNOLOGY PRODUCTS, INC.
120 RICHARDSON ST.
GRASS VALLEY, CA 95945
1-800-247-5548
(916) 272-4607 in California
CONTACT: W.L. ROBERTSON

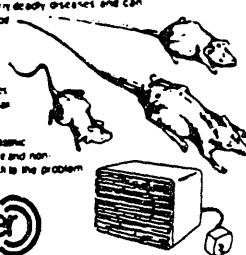
EXHIBIT A

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EXHIBIT B

The dirty facts:

1. Rats and mice bite 43,000 U.S. citizens annually. Half are children under 10.
 2. Rats and mice can carry deadly diseases and can contaminate stored food.
 3. Rats and mice are resistant to rodenticides that can easily kill a man.
 4. Rodents will avoid ultrasonic sound. PestChaser, safe and non-toxic, is a sound approach to the problem.
- PestChaser**
Ultrasonic Pest Repeller
- ONLY \$
- 

Get rid of unwanted guests...

PestChaser ultrasonic repeller can drive out disease bearing vermin that are making your home their home.

Safe, economical and effective high frequency ultrasound can keep your premises free of rats, mice and other pests. Protect your health and home, use the sound approach.

PestChaser
Ultrasonic Pest Repeller

ONLY \$


Ultrasonic Pest Repeller**PestChaser**

MODEL PC110S

RETAILERS PLEASE NOTE:

The claims and copy shown on these ad slices are approved for use by Sonic Technology Products Inc. before use.

PestChaser

ULTRASONIC RODENT REPELLER

puts the sound power where you need it. Protect your children, food and belongings from destructive vermin.

\$00⁰⁰

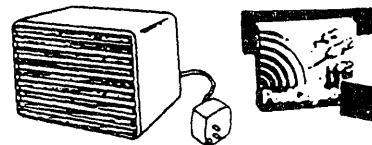
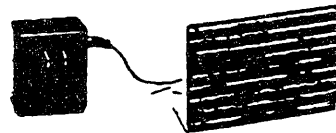



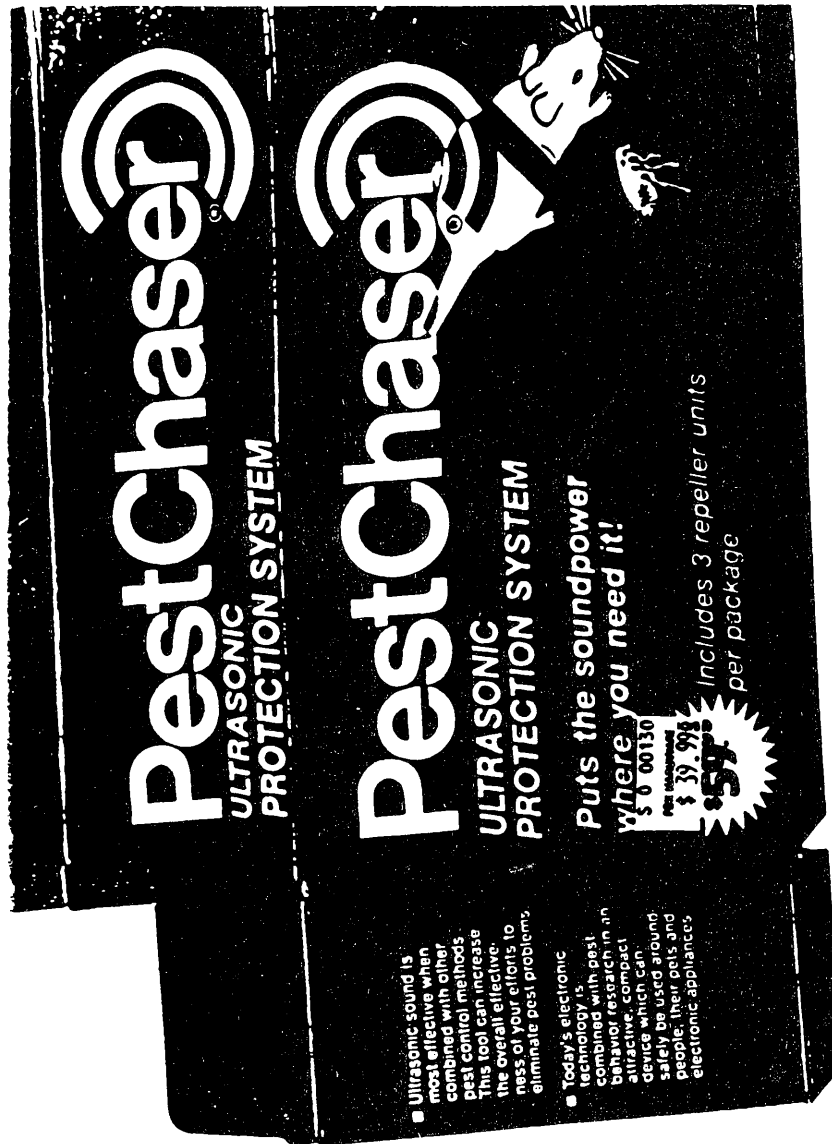
EXHIBIT B

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EXHIBIT C



PestChaser
ULTRASONIC
PROTECTION SYSTEM

PestChaser
ULTRASONIC
PROTECTION SYSTEM

puts the soundpower
where you need it!

\$0.00130
per watt/cm²

\$57
per package

Includes 3 repeller units

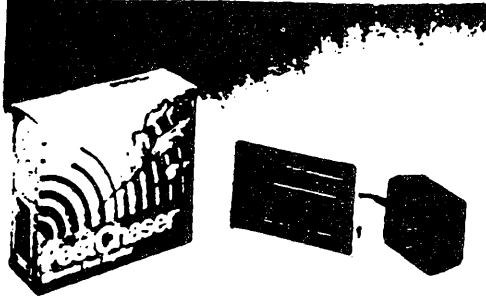
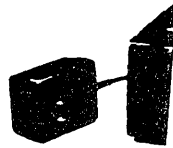
■ Ultrasonic sound is most effective when combined with other pest control methods. This tool can increase the overall effectiveness of your efforts to eliminate pest problems.

■ Today's electronic technology is combined with pest behavior research in an attractive, compact device which can safely be used around people, their pets, and electronic appliances.

EXHIBIT C



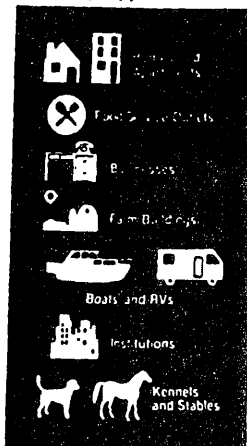
EXHIBIT D

Model PC110S Deluxe PestChaser  SUGGESTED LIST PRICE \$34.95	Mc Dual Sp  SUGGES
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PC110S also available in 220-240 VAC for export

Simple, Safe and Effective

The Right Technology for Many Applications



The PestChaser® Ultrasonic Repeller generates high frequency sound which cannot be heard by human beings or common pets.

PestChaser® is simply plugged into a wall outlet in the room to be protected. Its operation costs less than one cent a day. It makes no irritating audible sound, and it will not interfere with the operation of radio, television sets or other electronic equipment.

This inexpensive non-toxic approach creates an acoustically uncomfortable environment which, given a choice, rodents and other affected pests will avoid. A high quality, well designed ultrasound generator like the PestChaser® can quickly repel rodents from a sound protected area and can provide an ongoing repellent protection. Ultrasound is most effective when used in conjunction with other pest control methods.

Please Note:

Since ultrasound does not kill pests, it is most effective when used in conjunction with other pest control methods. The repellency effect of ultrasound can be used to drive pests toward safety traps and/or poisons; this may increase the effectiveness of efforts to eliminate a pest problem.

Specification

SOUNDPOWER: 130db + at source 1% meter
FREQUENCY: Pulsed sweep range 10 to 62 kHz
POWER: 110 or 220VAC input, down to 12VAC ops
CASE: Custom high impact eng grade ABS
U.L. LISTING: 4279
E.P.A. ESTABLISHMENT NO. 47260
MEETS FCC REGULATIONS

EXHIBIT D

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EXHIBIT D

TO FIT EVERY NEED

PC200X
PestChaser



ST PRICE \$54.95

Model PC3000
Deluxe set of 3 Direct Plug-In
Multiroom Protection PestChaser



SUGGESTED LIST PRICE \$59.95 set

Quality and Integrity

Sonic Technology pioneered ultrasonic pest repellers in the retail marketplace. We brought our product to market only after doing extensive biological and acoustical research. PestChaser is a high quality, U.S.A. made ultrasonic sound generator. It is designed to produce intense sound in specific frequency ranges heard by rodents and some other pest species. Every PestChaser goes through three separate function tests to insure quality control.

We've seen over 50 competitors fail due to lack of quality and integrity!

Satisfied Owners

Every PestChaser sold has carried a 90 day moneyback guarantee. With over 2,000,000 units sold, only by reputable retailers, returns for any reason average less than .8% of sales. PestChaser stays sold because it does what we say it will do.

Guarantees & Warranties

Sonic Technology backs the best product in the industry with the best warranties in the industry.

90 DAY UNCONDITIONAL GUARANTEE
ONE YEAR LIMITED WARRANTY
TWO YEAR EXTENDED WARRANTY

A great warranty and a company that will be around to back it!

Documented Testing

RODENTS

Sonic Technology conducted extensive field tests using a procedure designed by the Agricultural Department of Canada to measure repellency effectiveness. In these tests we proved the PestChaser could repel rodents in actual user situations and could keep them away. The Canadian protocol is the only published test procedure existent!

Reg. No. 1466 in Canada PCP #18874

FLEAS

A scientific field test completed in 1988 by an independent testing facility states that the PestChaser's high intensity ultrasound reduces number of fleas on 10 tested and in the carpet to 70% and more. No other testing or achieved results.

The PestChaser® Ultrasonic Repeller has been successfully sold by hundreds of quality retail merchandisers, pet stores, and mail order catalogs in the U.S.A., Canada, and abroad.

EXHIBIT E

ABOUT THE PESTCHASER®

Use of ultrasonic sound technology in the control of pests is relatively new in the pest control industry, and there is some understandable confusion about which pests are affected, and how these effects vary from one pest to another. The following information is supplied in response to the most frequently asked questions about the PestChaser®:

Ultrasonic sound waves are sounds that are above the range of human hearing; that is, above 20,000 cycles per second (or 20 kilohertz). The frequencies used in the PestChaser® are considerably higher than that - they sweep from 32 kilohertz to 62 kilohertz, many times a second.

These frequencies, in the intensity generated by the PestChaser®, are completely safe for use around humans, dogs, cats, and domestic animals, except rodents.

AREA COVERAGE

A PestChaser® is adequate for one large room, 300-500 square feet. The more hard reflective surfaces there are, the larger the area of effective coverage will be.

AUDIBLE NOISE

There is a slight hum built into the PestChaser®. This is normal, and should be soft enough in volume so as not to be bothersome.

PRODUCT LIFE

The PestChaser® is designed to be operated continuously. Made of high quality components with a Motorola high output transducer, it should have a useful service life of five to seven years.

EFFECTS OF ULTRASONICS ON ANIMAL LIFE**RODENTS**

Ultrasound can cause pain due to the high intensity sound pressure and will definitely create stress on the animals which causes them to avoid the sound protected area. The environmental stress effect can reduce their normal caution around placed traps and baits and increase the effectiveness of your eradication efforts.

FLEAS

Sonic Technology conducted extensive Field Test Studies which showed that the presence of high intensity ultrasound in a home environment could dramatically reduce the number of fleas found on household pets and in carpets. PestChaser® can be an excellent weapon to add to your arsenal for combatting flea problems.

INSECTS

There are many thousands of insect species on this planet. Some of these species are capable of making and receiving sounds in the ultrasonic range - most are not. Other species may react to stress caused by either pressure or vibration in the air created by high frequency sound.

The use of ultrasound in pest control is relatively new and there are many questions to be answered and discoveries to be made.

Sonic Technology Products, Inc. has spent over \$100,000 on research, reviewed hundreds of scientific articles on ultrasonic sound and its effects on plant and animal life, and has conducted numerous field test studies.

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PestChaser® owners continue to be one of our best sources of information. We have on file over 30,000 surveys completed by PestChaser® owners. Some people had single pest problems and other multiple pests. The following is what PestChaser® users said the product worked on for them: Rats and/or mice 84%, fleas 44%, cockroaches 37%, spiders 10%, flies 9%, crickets 8%, bats 6% and miscellaneous others 22%. This data reflects the experience of actual end-users with the product in their homes and businesses.

SONIC TECHNOLOGY PRODUCTS, INC.

Marketing and Sales, 120 Richardson St., Grass Valley, CA 95945 (916) 272-4607 1-800-247-5548

EXHIBIT F

Dear Pet Supplies Buyer,

WE'VE GOT SOMETHING THAT NO ONE ELSE HAS

What is it?

A Scientific Field Study that proves that our PestChaser® ultrasonic repeller can seriously reduce, if not eliminate a flea infestation problem in pet owners' homes. I'm sure you are aware of the success of ultrasonic flea collars. The fact is that no flea collar can prevent pets from picking up new fleas when they're outside and depositing them in their owners' homes. That's a problem. Treating the rooms inside the house with high intensity ultrasound can help prevent the "flea explosion" that plagues people.

The PestChaser® at 133 dB output is more than 100 times more powerful than the best ultrasonic flea collars.

PLUS, the PestChaser® sells better. In every catalog that we're in where ultrasonic flea collars are also carried, the PestChaser® outsells flea collars on a unit sales basis.

We forecast that flea season 1989 will be one of the worst ever. Isn't it time you added this top rated and proven product to your mix?

SPECIAL CATALOG MERCHANDISER QUOTE

MODEL PC110S	Deluxe PestChaser	\$12.00 ea.	List \$34.95
MODEL PC200X	Deluxe Dual Speaker		
	Pest Chaser	\$19.50 ea.	List \$54.95
MODEL PC3000	Set of 3 Direct Plug-in		
	Minirepeller	\$19.00 set	List \$59.95

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Concurring Statement

Enclosed is a raft of information and a copy of a Press Release just sent to over 300 Consumer and Trade Magazines.
Upon request we will provide a copy of the Field Test Study and samples for evaluation.

Sincerely yours,

W. Lowell Robertson
President

SONIC TECHNOLOGY PRODUCTS, INC.

EXHIBIT G

Sonic
Technology
Products Inc.

Dear CUSTOMER,

“GET IN STOCK FOR FLEA SEASON”

Backed by Field test Studies, the PestChaser® Deluxe Dual Speaker Model PC2020 will dramatically reduce the dreaded flea infestations that will occur in the months ahead.

PC2020...Deluxe Dual Speaker Model is...

50 times more powerful than our other models...

has a sweeping frequency range of 32 to 62

kilohertz while pulsing many times a second...

and...has an output of 148 dB (decibels) of sound.

Why not choose the VERY BEST for your customers this flea season?

“GET IN STOCK”...CALL 800-247-5548, NOW!

Sincerely yours,

Susan Walsh
Director of Sales

CONCURRING STATEMENT OF COMMISSIONER DENNIS A. YAO

I agree that there is reason to believe that Sonic Technology Products, Inc. and its principals violated Section 5 of the FTC Act in the manner alleged in the complaint. Accordingly, I voted in favor of issuance of the complaint. At the same time, I also find reason to believe that the respondents lacked adequate substantiation to support

claims that Sonic's ultrasonic pest control devices would effectively repel or control rodents under real life conditions. Thus, I would have preferred a broader complaint that also expressly includes such an allegation. In my view, this broader complaint would better achieve adequate relief to prevent future deceptive conduct in the event that the Commission upholds the complaint allegations after litigation. Of course, my final decisions in this matter will be made at the conclusion of this proceeding and based on the full record evidence.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Sections 5 and 12 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 3.25 of its Rules, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Sonic Technology Products, Inc., is a corporation organized, existing, and doing business under and by virtue of the

laws of the State of Nevada, with its principal place of business located at 120 Richardson Street, Suite C, Grass Valley, California.

Respondents W. Lowell Robertson and Brian Phillip Jobe are officers of said corporation. Individually or in concert with others, they formulate, direct, and control the policies, acts, and practices of said corporation. Their office and place of business is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That Sonic Technology Products, Inc., (“Sonic”) a corporation, and W. Lowell Robertson and Brian Phillip Jobe, individually and as officers of said corporation, and their successors and assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, offering for sale, sale, or distribution of the “PestChaser,” the “Pestrepeller,” or any other ultrasonic pest control device, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

- A. That the device can or will eliminate infestations of rodents;
- B. That the device can or will eliminate or reduce infestations of fleas; or
- C. That the device can or will repel fleas.

II.

It is further ordered, That respondents, their successors and assigns, and the corporate respondent’s officers, and respondents’ representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any ultrasonic pest control device, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do

forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, interpretations or purpose of any test, study or other scientific data.

III.

It is further ordered, That respondents, their successors and assigns, and the corporate respondent's officers, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of any ultrasonic pest control device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that the "PestChaser," the "Pestrepeller," or any other ultrasonic pest control device will increase or assist the effectiveness of a user's efforts to eliminate or reduce infestations of rodents or other pests when the device is used in conjunction with other pest control methods, such as traps or poisons; or

B. Making, directly or by implication, any representation referring or relating to the performance or efficacy of any such device;

unless at the time of making such a representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. "Competent and reliable scientific evidence" shall mean, for purposes of this order, those tests, analyses, research, studies or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession or science to yield accurate and reliable results;

Provided, that nothing in Section III of this order shall prevent respondents from truthfully representing, by use of the words "Registered in Canada," that the Canadian Department of Agriculture has registered the PestChaser, Pestrepeller or any other ultrasonic pest control device, and permitted the sale of such device in Canada.

IV.

It is further ordered, That respondents shall, within thirty (30) days after the date of service of this order, send to each catalog company with whom respondents have done business since January 1, 1992, a copy of this order and a notice that the catalog company shall immediately cease using or relying upon any of respondents, advertising or promotional materials containing representations prohibited by this order.

V.

It is further ordered, That for three (3) years from the date that the representation to which they pertain is last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any claim or representation covered by this order; and

B. All test reports, studies, or other materials in their possession or control that contradict, qualify or call into question such representation or the basis upon which respondents relied for such representation, including complaints from consumers.

VI.

It is further ordered, That for three (3) years from the date of issuance of this order, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying all documents demonstrating or relating to compliance with the terms of this order, including but not limited to:

A. All advertisements, promotional materials, documents, or other materials relating to the offer of sale or sale of any ultrasonic pest control device; and

B. All consumer complaints and requests for refunds.

VII.

It is further ordered, That, for three (3) years from the date of issuance of this order, the corporate respondent, its successors and

assigns, and the individual respondents, shall cause a copy of this order to be distributed to each purchaser of respondents, ultrasonic pest control devices for resale, to each present and future managerial employee of respondents, and to each present and future salesperson of respondents' products, whether they are independent sales agents or employees of respondents.

VIII.

It is further ordered, That, for five (5) years from the date of issuance of this order, respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution or subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

IX.

It is further ordered, That, for five (5) years from the date of issuance of this order, each individual respondent shall notify the Commission, by submitting a report, in writing, of any change in his residence or business address, occupation, place of business, or place of employment.

X.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

MARTIN MARIETTA CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-3500. Complaint, June 22, 1994--Decision, June 22, 1994

This consent order prohibits, among other things, the respondent's Expendable Launch Vehicle (ELV) division from disclosing to its satellite division any non-public information that its ELV division receives from a satellite manufacturer, and requires the respondent to give a copy of the consent order to U.S. satellite owners or manufacturers before obtaining any non-public information from them.

Appearances

For the Commission: *Ann B. Malester and Casey Triggs.*

For the respondent: *Raymond A. Jacobsen and Scott McGreggin,*
Howrey & Simon, Washington, D.C.

COMPLAINT

The Federal Trade Commission ("Commission"), having reason to believe that respondent, Martin Marietta Corporation ("Martin Marietta"), a corporation subject to the jurisdiction of the Federal Trade Commission, agreed to acquire certain assets of General Dynamics Corporation, a corporation subject to the jurisdiction of the Federal Trade Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45; and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

I. DEFINITIONS

For the purposes of this complaint the following definitions apply: