

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Deborah Platt Majoras, Chairman
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz**

_____)	
In the Matter of)	
)	
CYTODYNE, LLC,)	
a limited liability company,)	
)	
EVERGOOD PRODUCTS CORP.,)	
a corporation, and)	DOCKET NO. C-4146
)	
MELVIN L. RICH,)	
individually and as a manager of)	
Cytodyne, LLC and an officer of)	
Evergood Products Corp.)	
_____)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Cytodyne, LLC, a limited liability company, Evergood Products Corp., a corporation, and Melvin Rich, individually and as a manager of Cytodyne, LLC and an officer of Evergood Products Corp. (“respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Cytodyne, LLC is a New York limited liability company with its principal office or place of business at 200 Adams Boulevard, Farmingdale, NY 11735. Its previous corporate name was Everrich, LLC.
2. Respondent Evergood Products Corp. (“Evergood”) is a Delaware corporation with its principal office or place of business at 200 Adams Boulevard, Farmingdale, NY 11735. Evergood is a holding company and has an eighty-seven and one-half percent ownership interest in Cytodyne, LLC. Evergood has controlled the acts and practices of Cytodyne, LLC with respect to the advertising, marketing, distribution, offering for sale, and sale of Xenadrine EFX.

In fact, it's the only product of its kind proven *more effective* than ephedrine-based fat burners in head-to-head clinical testing. Best of all, you'll start to see and feel the difference almost overnight and even without strict dieting or exercise! It's about time you discovered the most incredible weight loss product in the world. Clinically proven Xenadrine-EFX. The Guaranteed Easiest and Fastest Way to Take Off the Weight!

Exhibit A (two-page magazine advertisement)

- b. **Video:** Claudette Garza with a photograph labeled "*Before*
Claudette Garza lost **22 Pounds!**"
- Announcer 1:** "*Xenadrine EFX, the world's number one diet*
supplement presents swimsuit season."
- Video:** Joey Anderson with a photograph labeled "*Before*
Joey Anderson lost **55 Pounds!**"
- Announcer 2:** "*Slip into something sleek and sexy, and start*
strutting your stuff."
- Video:** Hazel Nelson with a photograph labeled "*Before*
Hazel Nelson lost **25 Pounds!**"
- Announcer 1:** "*Xenadrine EFX can help make it happen, fast and*
easy."
- Video:** Dan Tedtman with a photograph labeled "*Before*
Dan Tedtman lost **35 pounds!**"
- Announcer 2:**

c. **The Shape Of Things To Come
...With Xenadrine-EFX.**

**Melissa lost
45 Pounds!**

**Patrick lost
64 Pounds!**

**Kelly Lost
110 Pounds!**

**Jennifer Lost
52 Pounds!**

Melissa, Patrick, Kelly and Jennifer are happier than ever before – because they all lost incredible amounts of weight, and kept it off, with Xenadrine-EFX.

“If it wasn’t for Xenadrine-EFX, I wouldn’t have lost my weight as quickly and as easily as I did.” says Melissa. And Patrick agrees. “I’ve used plenty of products in the past to

control your appetite, which helped Jennifer achieve significant decreases in body fat levels. In fact, the Xenadrine-EFX formula was clinically tested against two leading ephedra-based thermogenic supplements and outperformed them both in boosting metabolism and resulting caloric expenditures.

...

Xenadrine-EFX

Real People.

Real Science.

Real Success.

Exhibit D (magazine advertisement)

- e. **“I lost 100 pounds and I owe it all to Xenadrine-EFX.
If I can do it, you can too!”**
– Holli Whitacre

“I look in the mirror and I still can’t believe that it’s me!” Holli says today. “I’m 100 pounds lighter and I feel 100% healthier! I love what Xenadrine-EFX has done for me.”

Xenadrine-EFX worked for Holli and it will work for you. This amazing weight loss technology attacks body fat by increasing your metabolism better than any other product on the market today. Its unique formula combines a new generation of advanced thermogenic components that work together to stimulate significant increases to your metabolism and subsequently burn calories. Simply stated, Xenadrine-EFX helps you to burn fat more quickly.

And here's more good news. Xenadrine-EFX doesn't contain ephedra. In fact, it is the only thermogenic diet product that has been proven in head to head clinical studies to be more effective than ephedra-based fat burners. Scientifically designed to burn fat and maintain muscle, this revolutionary formula has quickly become the #1 diet supplement in America.

Xenadrine-EFX is the fastest and easiest way to dramatic and long term weight loss. Put Xenadrine-EFX to work for you and discover the unprecedented fat burning power of the next generation in weight-loss technology!

Xenadrine . . . The #1 Diet Supplement Worldwide . . . because it works!

Exhibit E (magazine advertisement translated from the original Spanish to English)

- f. “It was marvelous **to lose 20 lbs.** It’s even better **not to gain them back** with Xenadrine-EFX.”

Over a year ago, Claudette lost more than 20 pounds thanks to Xenadrine-EFX, and she feels happier than ever. As she, herself, says: “In a few weeks, I went down four clothing sizes. It’s a fact: Xenadrine-EFX changed my life forever!”

But what really makes Claudette story so incredible is that she has managed to keep the weight off for more than a year... with the help of Xeandrine-EFX, a sensible diet, and regular exercise.

What makes Xenadrine-EFX so effective is its exclusive ephedra-free thermogenic formula, which helps to speed up your metabolism and control your

- c. Xenadrine EFX does not cause rapid and substantial weight loss without the need to reduce caloric intake or increase physical activity; and
- d. Xenadrine EFX does not cause permanent or long-term weight loss.

Therefore, the representations set forth in Paragraph 8 were, and are, false or misleading.

10. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made.

11. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 8, at the time the representations were made. Therefore, the representation set forth in Paragra

16. Through the means described in Paragraph 7, respondents have presented testimonials for Xenadrine EFX by consumer endorsers who purportedly lost weight in the ordinary course of using the product. Respondents have failed to disclose that the endorsers were paid from \$1,000 to \$20,000 in connection with their endorsing Xenadrine EFX. This fact would be material to consumers in their purchase or use decisions regarding Xenadrine EFX. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

17. The acts and practices of respondents a