

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

August 7, 2017

Ms. Lece Lohr
President, Kids Segment
Justice Retail – a Division of Ascena Retail Group, Inc.
8323 Walton Parkway
New Albany, OH 43054

Dear Ms. Lohr:

I am writing to learn more about the actions Justice Retail has taken regarding its cosmetic product, Just Shine Shimmer Powder. I would also like you to specifically clarify some of the comments you made following the announcement of this troubling issue.

According to news reports, an independent laboratory analysis of Just Shine Shimmer Powder conducted by the Scientific Analytical Institute in Greensboro, NC showed that this product apparently contained tremolite asbestos fibers contaminating the talc in the powder.¹ This analysis also reportedly found that the powder contained four heavy metals, including lead, barium, chromium, and selenium.²

Based on your statement on this issue, the company's own third party testing lab did not find any evidence that the powder was contaminated, but that, out of an abundance of caution, you stopped the sale of this product.³

If accurate, the Scientific Analytical Institute report is particularly alarming because Justice Retail's target market is "girls who are ages 6 to 12,"⁴ who may be particularly vulnerable to the risks of adulterated cosmetics. Several federal agencies have found the

¹ *Company Issues Response After I-Team Finds Asbestos in Makeup*, ABC 11 (Raleigh-Durham-Fayetteville) Eyewitness News (July 20, 2017).

² *Id.*

³ Justice Retail, Just Shine Shimmer Powder (www.shopjustice.com/customerService/justshineshimmerpowder) (accessed July 30, 2017); Justice Retail, "Justice has a long and strong history..." July 16, 2017 at 10:16 a.m. Facebook Post.

⁴ Ascena Retail Group, Form 10-K at 4 (Sept. 19, 2016) (available at <http://ascenaretail.com/investors.jsp>).

contaminants purportedly found in this batch of product to be dangerous. For example, the National Cancer Institute (NCI) states that asbestos is a “known human carcinogen” that can cause scarring and inflammation of the lungs and is associated with mesothelioma and at least six other cancers.⁵ The Centers for Disease Control and Prevention (CDC) has stated that there is no safe blood lead level in children, and that barium, chromium, and selenium likewise may be harmful when applied to skin.⁶ The Food and Drug Administration (FDA) considers it “unacceptable for cosmetic talc to be contaminated with asbestos.”⁷

Given the recent reports of possible contamination of this product, I am concerned about the possibility that some of your other products may have been tainted with these dangerous materials. Therefore, I would like you to provide some additional information that will be helpful in better understanding how exactly Justice Retail is responding to this troubling issue. I request you provide Committee staff with the following information:

1. In your some of your public responses to reports of Just Shine Shimmer Powder contamination, you stated that “[a] third party ISO-certified testing lab concluded that there is no asbestos in our Just Shine Shimmer Powder product.”⁸
 - a. Please provide copies of any reports that you have received from this testing lab concerning the Just Shine Shimmer Powder.
 - b. In addition, please address whether it is possible for some batches of a cosmetic product to be contaminated but others to show no signs of such impurities.
 - c. Have you asked the Scientific Analytical Institute to provide you with the actual product that they tested?

⁵ National Cancer Institute, Asbestos Exposure and Cancer Risk (<https://www.cancer.gov/about-cancer/causes-prevention/risk/substances/asbestos/asbestos-fact-sheet>) (accessed July 24, 2017).

⁶ Centers for Disease Control and Prevention (CDC), Lead (www.cdc.gov/nceh/lead/) (accessed July 24, 2017); National Institute for Occupational Safety and Health, Barium Chloride (<https://www.cdc.gov/niosh/ipcsneng/neng0614.html>) (accessed July 24, 2017); National Institute for Occupational Safety and Health, Chromium Toxicity (<https://www.atsdr.cdc.gov/csem/csem.asp?csem=10&po=10>) (accessed July 24, 2017); Agency for Toxic Substances & Disease Registry, Selenium (<https://www.atsdr.cdc.gov/phs/phs.asp?id=151&tid=28>) (accessed July 24, 2017).

⁷ Food and Drug Administration, Talc, (<https://www.fda.gov/cosmetics/productsingredients/ingredients/ucm293184.htm>) (accessed July 25, 2017).

⁸ Justice Retail, Just Shine Shimmer Powder (<http://www.shopjustice.com/customerService/justshineshimmerpowder>) (accessed July 28, 2017).

2. Please provide any information on the number of adverse events reported to FDA and the number of consumer complaints reported to Justice Retail associated with Just Shine Shimmer Powder or any other cosmetic or personal care product sold by Justice Retail. Please also provide any details regarding the types of adverse events associated with Just Shine Shimmer Powder or any other cosmetic or personal care product sold by Justice Retail.
3. Your 2016 10K form states that you “purchase a significant portion of [your] merchandise directly from foreign markets, including Asia, the Middle East and Africa, and indirectly through domestic vendors with foreign sources.”⁹
 - a. From what entity did you purchase the Just Shine Shimmer Powder (Item number 192307, or SKU number 19052777)? Is this entity a foreign manufacturer, a domestic vendor with foreign sources, or a domestic manufacturer?
 - b. If you purchased the powder from a foreign source, please provide the name of that source and identify both its principle place of business and the location of its manufacturing facilities, and identify the actual manufacturing facility which produced this powder.
 - c. If you purchased the powder from a domestic vendor, please provide the name of that vendor. Please also identify the manufacturer from which that vendor purchased the powder and identify both the manufacturer’s principle place of business and the location of its manufacturing facilities, and identify the actual manufacturing facility which produced this powder.
 - d. If you purchased the powder from a domestic manufacturer, please provide the name and location of that manufacturer.
 - e. Please also provide further information regarding your contract with this source including: the length of your relationship with the entity, the quality management systems required by Justice, the risk mitigation strategies required by Justice, and any safety substantiation required by Justice.
4. An expert has suggested that if Just Shine Shimmer Powder does contain asbestos, the likely cause is that the talc used in the powder was itself contaminated with asbestos when it was mined.¹⁰ FDA recommends that “[t]o prevent contamination of talc with asbestos, it is

⁹ Ascena Retail Group, Form 10-K at 13 (Sept. 19, 2016) (available at <http://ascenaretail.com/investors.jsp>).

¹⁰ *Company Issues Response After I-Team Finds Asbestos in Makeup*, ABC 11 (Raleigh-Durham-Fayetteville) Eyewitness News (July 20, 2017).

essential to select talc mining sites carefully and take steps to purify the ore sufficiently.”¹¹
Please describe any steps that you have taken to ensure that you only purchase cosmetic products from manufacturing partners who themselves have taken steps to ensure that their talc is appropriately mined, and describe any oversight you have conducted of these manufacturer mining processes.

5. It has been reported that your company tested this powder after a third party indicated that it may present concerns.¹² What tests do you conduct prior to releasing cosmetic and personal care products to the public in order to ensure that consumers are not at risk of exposure to hazardous materials?

We would appreciate your response to this request as soon as possible, but no later than August 28, 2017. If you have questions regarding this request, please have your staff contact Kim Trzeciak or Christina Calce of the Democratic Committee staff at (202) 225-3641.

Sincerely,



Frank Pallone, Jr.
Ranking Member

¹¹ Food and Drug Administration, Cosmetics: Talc (www.fda.gov/Cosmetics/ProductsIngredients/Ingredients/ucm293184.htm) (accessed July 24, 2017).

¹² Justice Retail, Just Shine Shimmer Powder (<http://www.shopjustice.com/customerService/justshineshimmerpowder>) (accessed July 24, 2017).