

ONE HUNDRED ELEVENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
2157 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6143

Majority (202) 225-5051  
Minority (202) 225-5074

May 28, 2010

Mr. William C. Weldon  
Chairman and Chief Executive Officer  
Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933

Dear Mr. Weldon:

In the course of Committee on Oversight and Government Reform's investigation of Johnson & Johnson's recall of pediatric medicine, we learned that in late 2008 Johnson & Johnson learned it had problems with a certain type of Motrin. Rather than announcing a recall, J&J allegedly hired a contractor to go to retail stores and surreptitiously purchase the suspect Motrin. The contractor's employees were instructed to act as though they were ordinary customers. It wasn't until this activity was discovered by the Food and Drug Administration that J&J announced a recall of the affected medication.

According to an internal document the Committee uncovered yesterday entitled "CSCS Motrin Purchase Project", the contractor was instructed as follows:

You should simply "act" like a regular customer while making these purchases. THERE MUST BE NO MENTION OF THIS BEING A RECALL OF THE PRODUCT!  
(emphasis in the original)<sup>1</sup>

I have referred to this as the "phantom recall," but unfortunately, it is all too real and extremely troubling. It raises the question of whether Johnson & Johnson placed a higher priority on preserving the reputation of its Motrin brand than it did on consumer protection.

The Committee on Oversight and Government Reform is the principal oversight committee in the U.S. House of Representatives, with jurisdiction over "any matter." Under Rules X and XI of the Rules of the House of Representatives, the Committee is investigating the recent recall of over-the-counter Johnson & Johnson/McNeil pediatric products. We are expanding this investigation to include the issue of Johnson & Johnson's phantom recall of

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<sup>1</sup> CSCS Motrin Purchase Project (June 12, 2009), copy attached.

Mr. William C. Weldon  
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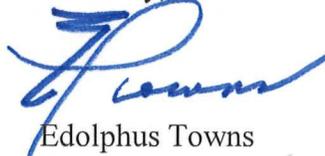
Motrin. To assist the Committee in its investigation, please provide the following information and records:

1. Please provide copies of all records relating to or referring to Johnson & Johnson's removal of the defective Motrin from retail outlets.
2. Please identify all outside contractors and subcontractors engaged by Johnson & Johnson or on Johnson & Johnson's behalf, to remove the defective Motrin from retail outlets, and provide full contact information from each.
3. Please provide copies of all contracts and agreements Johnson & Johnson entered into with outside contractors, consultants, or others for the purpose of effectuating the purchase of the defective Motrin from retail outlets.
4. Please identify all Johnson & Johnson employees who were involved in the decision to remove the defective Motrin from retail outlets and provide full contact information for each.
5. Please provide a copy of the entire document entitled, "CSCS Motrin Purchase Project (June 12, 2009)".
6. Has Johnson & Johnson ever used outside contractors or employees in other instances to purchase J&J products from retail outlets? If so, please provide a detailed description of each such instance and identify the employees and outside contractors involved.

Please deliver the requested information and records to the Committee on Oversight and Government Reform, room 2157 Rayburn House Office Building, no later than 4:00 p.m. on Monday, June 7, 2010. To facilitate delivery and review, we prefer that the records be delivered in digital form. Please note that the terms "records" and "relating to" are defined in the attachment to this letter.

Should you have any questions regarding this request, please contact Chris Staszak or Kevin Barstow of the Committee staff at 202-225-5051.

Sincerely,



Edolphus Towns  
Chairman

The Honorable Darrell Issa  
Ranking Minority Member  
Committee on Oversight and Government Reform

## ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

**OBJECTIVE**

To visit all the stores on your schedule; locate, and purchase all of the **MOTRIN® IB Caplet 8ct Vial** product in the store, bagging the product by-store (with receipt), boxing-up multiple stores worth of product and returning to the manufacturer as outlined later in these instructions. Also, to complete the required paperwork as noted below.

Motrin IB Caplet 8ct Vial  
WIS # 300482421000 is the only product to be purchased.  
All Motrin Caplets are purchased - we will record list date on form separately.



ATTN: [REDACTED]

**PROCESS**

WIS has been asked by CSCS (our client) on behalf of Johnson & Johnson to purchase all **MOTRIN® IB Caplet 8ct Vial** in the stores you have been scheduled for. You will quickly enter each store, find ALL of the Motrin product described, make the purchase transaction, secure the receipt, and leave.

You should simply "act" like a regular customer while making these purchases. **THERE MUST BE NO MENTION OF THIS BEING A RECALL OF THE PRODUCT!** If asked, simply state that your employer is checking the distribution chain of this product and needs to have some of it purchased for the project.

With your purchase, ask for a bag for the product so you can keep the product from each visit separate with the corresponding receipt in a box in your car.

Immediately after each purchase and while in your car, fill out the attached **Product Purchase & Ship Instructions Form** and place it in the bag that contains that stores product with your receipt. You will need a copy of this form for each store you visit.

Next, fill out the **WIS Daily Activity Sheet** with your information from this individual store. You will add information to this form after each stop. You will use this form the entire day; a different one each day.

Proceed to the next stop on your schedule.

Repeat the above process for each visit.

BE AWARE THAT SOME LOCATIONS, POSSIBLY MANY OF THEM, WILL NOT HAVE ANY OF THIS MOTRIN PRODUCT. IF YOU CANNOT FIND THE PRODUCT, ASK THE STORE IF THEY CARRY ANY OF IT. IF NOT, THANK THEM AND LEAVE. YOU MUST STILL FILL OUT THE Product Purchase & Ship Instructions Form and the WIS Daily ACTIVITY SHEET FOR EVERY VISIT, EVEN IF YOU FIND NO PRODUCT. Simply enter zeros for product purchased.