UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2017

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE TRANSITION PERIOD FROM _____ TO _____

COMMISSION FILE NUMBER: 001-32360

AKORN, INC.

(Exact Name of Registrant as Specified in its Charter)

LOUISIANA	**72-0717400**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
1925 W. Field Court, Suite 300 Lake Forest, Illinois	**60045**
(Address of Principal Executive Offices)	(Zip Code)

(847) 279-6100
(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☑ **No** ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

☑
Yes **No** ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☑ **Accelerated filer** ☐

Non-accelerated filer ☐ **(Do not check if a smaller reporting company)** **Smaller reporting company** ☐

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ **No** ☑

At July 24, 2017, there were 124,916,615 shares of common stock, no par value, outstanding.

PART I. FINANCIAL INFORMATION
Item 1. Financial Statements.

AKORN, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In Thousands, Except Share Data)

	June 30, 2017 (Unaudited)	December 31, 2016
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 322,742	$ 200,772
Trade accounts receivable, net	177,591	283,154
Inventories, net	181,549	174,793
Available-for-sale securities, current	—	1,106
Prepaid expenses and other current assets	22,008	25,986
TOTAL CURRENT ASSETS	703,890	685,811
PROPERTY, PLANT AND EQUIPMENT, NET	276,936	238,404
OTHER LONG-TERM ASSETS		
Goodwill	285,054	284,293
Intangible assets, net	720,000	758,854
Deferred tax assets	8,225	5,286
Other non-current assets	2,239	1,072
TOTAL OTHER LONG-TERM ASSETS	1,015,518	1,049,505
TOTAL ASSETS	$ 1,996,344	$ 1,973,720
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Trade accounts payable	$ 42,770	$ 59,534
Purchase consideration payable	4,994	4,994
Income taxes payable	2,832	16,198
Accrued royalties	4,304	15,044
Accrued compensation	17,244	19,113
Accrued administrative fees	29,017	36,436
Accrued expenses and other liabilities	27,699	24,236
TOTAL CURRENT LIABILITIES	128,860	175,555
LONG-TERM LIABILITIES:		
Long-term debt (net of non-current deferred financing costs)	812,587	809,979
Deferred tax liability	157,867	157,607
Other long-term liabilities	11,758	11,395
TOTAL LONG-TERM LIABILITIES	982,212	978,981
TOTAL LIABILITIES	1,111,072	1,154,536
SHAREHOLDERS' EQUITY		
Common stock, no par value – 150,000,000 shares authorized; 124,858,261 and 124,390,217 shares issued and outstanding at June 30, 2017 and December 31, 2016, respectively	538,600	521,860
Retained earnings	362,855	319,291
Accumulated other comprehensive loss	(16,183)	(21,967)
TOTAL SHAREHOLDERS' EQUITY	885,272	819,184
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ 1,996,344	$ 1,973,720

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In Thousands, Except Per Share Data)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	**2016**	**2017**	**2016**
Revenues, net	$ 199,140	$ 280,734	$ 452,560	$ 549,081
Cost of sales (exclusive of amortization of intangibles, included within operating expenses below)	96,173	108,961	200,461	214,291
GROSS PROFIT	102,967	171,773	252,099	334,790
Selling, general and administrative expenses	53,923	53,971	101,449	103,057
Acquisition-related costs	76	136	87	333
Research and development expenses	15,876	8,868	27,167	18,347
Amortization of intangibles	15,504	16,430	30,975	32,948
Impairment of intangible assets	3,058	—	3,058	158
TOTAL OPERATING EXPENSES	88,437	79,405	162,736	154,843
OPERATING INCOME	14,530	92,368	89,363	179,947
Amortization of deferred financing costs	(1,304)	(1,872)	(2,608)	(8,183)
Interest expense, net	(9,380)	(10,768)	(18,946)	(22,286)
Other non-operating income (expense), net	2,904	547	4,267	(2,631)
INCOME BEFORE INCOME TAXES	6,750	80,275	72,076	146,847
Income tax provision	4,213	18,282	28,512	42,968
CONSOLIDATED NET INCOME	$ 2,537	$ 61,993	$ 43,564	$ 103,879
CONSOLIDATED NET INCOME PER SHARE				
CONSOLIDATED NET INCOME PER SHARE, BASIC	$ 0.02	$ 0.51	$ 0.35	$ 0.86
CONSOLIDATED NET INCOME PER SHARE, DILUTED	$ 0.02	$ 0.50	$ 0.35	$ 0.83
SHARES USED IN COMPUTING NET INCOME PER SHARE				
BASIC	124,660	121,374	124,541	120,401
DILUTED	125,194	125,924	124,855	125,934
COMPREHENSIVE INCOME				
Consolidated net income	$ 2,537	$ 61,993	$ 43,564	$ 103,879
Unrealized holding gain on available-for-sale securities, net of tax of ($85) and ($961) for the three months ended June 30, 2017 and 2016. ($160) and ($575) for the six month periods ended June 30, 2017 and 2016 respectively.	144	1,629	272	975
Foreign currency translation gain (loss)	1,239	(1,308)	5,265	(439)
Pension liability adjustment gain (loss), net of tax of ($6) and $694 for the three months ended June 30, 2017 and 2016, and ($63) and $694 for the six month periods ended June 30, 2017 and 2016 respectively.	24	(2,727)	247	(2,727)
COMPREHENSIVE INCOME	$ 3,944	$ 59,587	$ 49,348	$ 101,688

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY
FOR THE SIX MONTHS ENDED JUNE 30, 2017
(In Thousands)

	Shares	Common Stock	Retained Earnings	Other Comprehensive Loss	Total
BALANCES AT DECEMBER 31, 2016	124,390	$ 521,860	$ 319,291	$ (21,967)	$ 819,184
Consolidated net income	—	—	43,564	—	43,564
Exercise of stock options	459	7,060	—	—	7,060
Restricted stock units	14	3,037	—	—	3,037
Stock-based compensation expense - stock options	—	6,270	—	—	6,270
Foreign currency translation gain	—	—	—	5,265	5,265
Stock compensation plan withholdings for employee taxes	(5)	(164)	—	—	(164)
Unrealized holding gain on available-for-sale securities	—	—	—	272	272
Akorn AG pension liability adjustment	—	—	—	247	247
Employee stock purchase plan	—	537	—	—	537
BALANCES AT JUNE 30, 2017 (unaudited)	124,858	$ 538,600	$ 362,855	$ (16,183)	$ 885,272

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In Thousands)
(Unaudited)

	Six Months Ended June 30,	
	2017	**2016**
OPERATING ACTIVITIES:		
Consolidated net income	$ 43,564	$ 103,879
Adjustments to reconcile consolidated net income to net cash provided by operating activities:		
Depreciation and amortization	42,212	44,111
Amortization of debt financing costs	2,608	8,152
Impairment of intangible assets	8,079	158
Non-cash stock compensation expense	9,844	6,446
Non-cash interest expense	—	764
Income from Available for sale securities	(3,032)	—
Deferred income taxes, net	(2,341)	(9,724)
Loss on sale of available-for-sale securities	196	45
Other	(288)	(780)
Changes in operating assets and liabilities:		
Trade accounts receivable	105,848	(54,296)
Inventories, net	(6,225)	(2,652)
Prepaid expenses and other current assets	3,076	(23,421)
Trade accounts payable	(13,465)	4,778
Accrued expenses and other liabilities	(30,051)	(41,383)
NET CASH PROVIDED BY OPERATING ACTIVITIES	$ 160,025	$ 36,077
INVESTING ACTIVITIES:		
Proceeds from disposal of assets	4,811	5,966
Payments for intangible assets	(200)	(3,375)
Purchases of property, plant and equipment	(50,072)	(29,726)
NET CASH USED IN INVESTING ACTIVITIES	$ (45,461)	$ (27,135)
FINANCING ACTIVITIES:		
Proceeds from the exercise of stock options	6,897	6,176
Debt financing costs	—	(5,128)
Debt payments	—	(200,000)
NET CASH PROVIDED BY(USED IN) FINANCING ACTIVITIES	$ 6,897	$ (198,952)
Effect of exchange rate changes on cash and cash equivalents	509	38
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	$ 121,970	$ (189,972)
Cash and cash equivalents at beginning of period	200,772	346,266
CASH AND CASH EQUIVALENTS AT END OF PERIOD	$ 322,742	$ 156,294
SUPPLEMENTAL DISCLOSURES:		
Amount paid for interest	$ 22,124	$ 21,860
Amount paid for income taxes, net	$ 43,901	$ 100,801
Additional capital expenditures included in accounts payable	$ 8,806	$ 43,214

See notes to condensed consolidated financial statements.

AKORN, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

Note 1 — Business and Basis of Presentation

Business: Akorn, Inc., together with its wholly-owned subsidiaries (collectively "Akorn," the "Company," "we," "our" or "us") is a specialty generic pharmaceutical company that develops, manufactures and markets generic and branded prescription pharmaceuticals, branded as well as private-label over-the-counter consumer health products and animal health pharmaceuticals. We are an industry leader in the development, manufacturing and marketing of specialized generic pharmaceutical products in alternative dosage forms. We focus on difficult-to-manufacture sterile and non-sterile dosage forms including, but not limited to, ophthalmics, injectables, oral liquids, otics, topicals, inhalants and nasal sprays.

Akorn is a Louisiana corporation founded in 1971 in Abita Springs, Louisiana. In 1997, we relocated our corporate headquarters to the Chicago, Illinois area and currently maintain our principal corporate offices in Lake Forest, Illinois. We operate pharmaceutical manufacturing facilities in Decatur, Illinois; Somerset, New Jersey; Amityville, New York; Hettlingen, Switzerland; and Paonta Sahib, Himachal Pradesh, India. We also operate a central distribution warehouse in Gurnee, Illinois and additional distribution facilities in Amityville, New York and Decatur, Illinois. Our research and development ("R&D") centers are located in Vernon Hills, Illinois; Copiague, New York and Cranbury, New Jersey. In the fourth quarter of 2016, we moved our previous R&D center in Warminster, Pennsylvania to Cranbury, New Jersey. We also have other corporate offices in Ann Arbor, Michigan and Gurgaon, Haryana, India.

During the three and six month periods ended June 30, 2017 and 2016, the Company reported results for two reportable segments: Prescription Pharmaceuticals and Consumer Health. For further detail concerning our reportable segments please see Note 10 - "*Segment Information.*"

Our common shares are traded on The NASDAQ Global Select Market under the ticker symbol AKRX.

Merger Agreement: On April 24, 2017, the Company entered into an Agreement and Plan of Merger (the "Merger Agreement") with Fresenius Kabi AG, a German stock corporation ("Parent"), Quercus Acquisition, Inc., a Louisiana corporation and wholly owned subsidiary of Parent ("Merger Sub") and, solely for purposes of Article VIII thereof, Fresenius SE & Co. KGaA, a German partnership limited by shares. The Merger Agreement, which has been adopted by the Board of Directors of the Company, provides for the merger of Merger Sub with and into the Company (the "Merger"), with the Company surviving the Merger as a wholly owned subsidiary of Parent.

Subject to the terms and conditions set forth in the Merger Agreement, at the effective time of the Merger (the "Effective Time"), each of the Company's issued and outstanding shares of common stock, no par value per share (the "Shares") (other than Shares owned by the Company or by Parent, Merger Sub or any direct or indirect wholly owned subsidiary of the Company or of Parent (other than Merger Sub) immediately prior to the Effective Time), will be converted into the right to receive $34.00 in cash per Share (the "Merger Consideration"), without interest.

Completion of the Merger is subject to customary closing conditions, including (1) the approval of the Merger Agreement by the affirmative vote of the holders of at least a majority of all outstanding Shares (the "Shareholder Approval"), (2) there being no judgment or law enjoining or otherwise prohibiting the consummation of the Merger and (3) the expiration of the waiting period applicable to the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. The obligation of each of the Company and Parent to consummate the Merger is also conditioned on the other party's representations and warranties being true and correct (subject to certain materiality exceptions) and the other party having performed in all material respects its obligations under the Merger Agreement.

The Merger Agreement contains representations and warranties and covenants of the parties customary for a transaction of this nature. Among other things, Parent has agreed to promptly take all actions necessary to obtain antitrust approval of the Merger, including (i) entering into consent decrees or undertakings with a regulatory authority, (ii) divesting or holding separate any assets or businesses of Parent or the Company, (iii) terminating existing contractual relationships or entering into new contractual relationships, (iv) effecting any other change or restructuring of Parent or the Company and (v) defending through litigation any claim asserted by a regulatory authority that would prevent the closing of the Merger.

Until the earlier of the termination of the Merger Agreement and the Effective Time, the Company has agreed to operate its business in the ordinary course of business in all material respects and has agreed to certain other operating covenants and to not take certain specified actions prior to the consummation of the Merger, as set forth more fully in the Merger Agreement.

Pursuant to the terms of the Merger Agreement, the Company held a meeting of its shareholders for the purpose of obtaining the Shareholder Approval and the Board recommended that the Company's shareholders approve the Merger Agreement. On July 19, 2017, the Company's shareholders voted to approve the Merger Agreement providing for the acquisition of Akorn by Fresenius Kabi AG, a subsidiary of Fresenius SE & Co. KGaA (FWB:FRE). The transaction remains subject to regulatory approvals and customary closing conditions, and the companies expect the acquisition will close by early 2018. There may be some additional expenses incurred at closing as disclosed in the Definitive proxy statement file by the Company on June 15, 2017.

***Basis of Presentation*:** The Company's financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") for interim financial information and accordingly do not include all the information and footnotes required by GAAP for annual financial statements. In the opinion of management, all adjustments of a normal and recurring nature considered necessary for a fair presentation have been included in these financial statements. Operating results for the three month period ended June 30, 2017 are not necessarily indicative of the results that may be expected for the full year. For further information, refer to the consolidated financial statements and footnotes for the year ended December 31, 2016, included in the Company's Annual Report on Form 10-K filed on March 1, 2017.

Note 2 — Summary of Significant Accounting Policies

Consolidation: The accompanying condensed consolidated financial statements include the accounts of Akorn, Inc. and its wholly-owned domestic and foreign subsidiaries. All inter-company transactions and balances have been eliminated in consolidation, and the financial statements of Akorn India Private Limited ("AIPL") and Akorn AG (formerly "Excelvision AG" also referred to as "Hettlingen") have been translated from Indian Rupees and Swiss Francs, respectively, to U.S. Dollars based on the currency translation rates in effect either during the period or as of the date of consolidation, as applicable.

Use of Estimates: The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ materially from those estimates.

Significant estimates and assumptions for the Company may relate to the allowances for chargebacks, rebates and administrative fees, product returns, coupons, promotions and doubtful accounts, as well as the reserve for slow-moving and obsolete inventories, the carrying value and lives of intangible assets, the useful lives of fixed assets, the carrying value of deferred income tax assets and liabilities, the assumptions underlying share-based compensation, accrued but unreported employee benefit costs and assumptions underlying the accounting for business combinations.

Going Concern: In connection with the preparation of the financial statements as of and for the six month period ended June 30, 2017, the Company conducted an evaluation as to whether there were conditions and events, considered in the aggregate, which raised substantial doubt as to the entity's ability to continue as a going concern within one year after the date of the issuance, or the date of availability, of the financial statements to be issued, noting that there did not appear to be evidence of substantial doubt of the entity's ability to continue as a going concern.

Revenue Recognition: Revenue is recognized when persuasive evidence of an arrangement exists, delivery has occurred or services have been rendered, the sales price is fixed or determinable, and collectability is reasonably assured. Revenue from product sales is recognized when title and risk of loss have passed to the customer.

Provision for estimated chargebacks, rebates, discounts, managed care rebates, product returns and doubtful accounts is made at the time of sale and is analyzed and adjusted, if necessary, at each balance sheet date.

Freight: The Company records amounts billed to customers for shipping and handling as revenue, and records shipping and handling expense related to product sales as cost of sales.

Cash and Cash Equivalents: The Company considers all unrestricted, highly liquid investments with maturity of three months or less when acquired, to be cash and cash equivalents.

Accounts Receivable: Trade accounts receivable are stated at their net realizable value. The nature of the Company's business involves, in the ordinary course, significant judgments and estimates relating to chargebacks, coupon redemption, product returns, rebates, discounts given to customers and allowances for doubtful accounts. Depending on the products, the customers, the specific terms of national supply contracts and the particular arrangements with the Company's wholesaler customers, rebates, chargebacks and other credits are recorded as deductions to the Company's trade accounts receivable.

Unless otherwise noted, the provisions and allowances for the following customer deductions are reflected in the accompanying condensed consolidated financial statements as reductions of revenues and trade accounts receivable, respectively.

***Chargebacks*:** The Company enters into contractual agreements with certain third parties such as retailers, hospitals, group-purchasing organizations ("GPOs") and managed care organizations to sell certain products at predetermined prices. Similarly, we maintain an allowance for rebates and discounts related to billbacks, wholesaler fee for service contracts, GPO administrative fees, government programs, prompt payment and other adjustments with certain customers. Most of the parties have elected to have these contracts administered through wholesalers that buy the product from the Company and subsequently sell it to these third parties. As noted elsewhere, these wholesalers represent a significant percentage of the Company's gross sales. When a wholesaler sells products to one of these third parties that are subject to a contractual price agreement, the difference between the price paid to the Company by the wholesaler and the price under the specific contract is charged back to the Company by the wholesaler. This process typically takes four to six weeks, but for some products may extend to twelve weeks. The Company tracks sales and submitted chargebacks by product number and contract for each wholesaler. Utilizing this information, the Company estimates a chargeback percentage for each product and records an allowance as a reduction to gross sales when the Company records its sale of the products. The Company reduces the chargeback allowance when a chargeback request from a wholesaler is processed. Actual chargebacks processed by the Company can vary materially from period to period based upon actual sales volume through the wholesalers. However, the Company's provision for chargebacks is fully reserved for at the time revenues are recognized.

Management obtains product inventory reports from certain wholesalers to aid in analyzing the reasonableness of the chargeback allowance and to monitor whether wholesaler inventory levels do not significantly exceed customer demand. The Company assesses the reasonableness of its chargeback allowance by applying a product chargeback percentage that is based on a combination of historical activity and future price and mix expectations to the quantities of inventory on hand at the wholesalers according to wholesaler inventory reports. In addition, the Company estimates the percent of gross sales generated through direct and indirect sales channels and the percent of contract vs. non-contract revenue in the period, as these each affect the estimated reserve calculation. In accordance with its accounting policy, the Company also estimates the percent of wholesaler inventory that will ultimately be sold to third parties that are subject to contractual price agreements based on a trend of such sales through wholesalers. The Company uses this percentage estimate until historical trends indicate that a revision should be made. On an ongoing basis, the Company evaluates its actual chargeback rate experience, and new trends are factored into its estimates each quarter as market conditions change.

For the three month period ended June 30, 2017, the Company incurred a chargeback provision of $237.3 million, or 41.8% of gross sales of $567.1 million, compared to $290.2 million, or 41.0% of gross sales of $708.4 million in the prior year period. We note that the dollar decrease and percent increase in the comparative period was the result of gross sales decreases and product mix shifts to products with higher chargeback expense percentages. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of contractual obligations, review of historical trends and evaluation of recent activity. Furthermore, other events that could materially alter chargeback rates include: changes in product pricing as a result of competitive market dynamics or negotiations with customers, changes in demand for specific products due to external factors such as competitor supply position or consumer preferences, customer shifts in buying patterns from direct to indirect through wholesalers, which could either individually or in aggregate increase or decrease the chargeback rate depending on the direction and velocity of the change(s).

To better understand the impact of changes in chargeback reserve based on circumstances that are not fully outside the Company's control, for instance, the ratio of sales subject to chargeback to indirect sales, the Company performs a sensitivity analysis. Holding all other assumptions constant, for a 380 basis point ("BP") change in the ratio of sales subject to chargeback to indirect sales would increase the chargeback reserve by $0.9 million or decrease the chargeback reserve by $2.1 million depending on the change in the direction of the ratio. Fundamentally, the BP change calculation is determined based on the six month trend of the average ratio of sales subject to chargeback to indirect sales. Due to the competitive generic pharmaceutical industry and our recent experience with wholesalers' strategy and shifts in contracted and non-contracted indirect sales, we believe that the six month trend of the proportion of direct to indirect sales provides a representative basis for sensitivity analysis.

Rebates, Administrative Fees and Others: The Company maintains an allowance for rebates, administrative fees and others, related to contracts and other rebate programs that it has in place with certain customers. Rebates, administrative fees and other percentages vary by product and by volume purchased by each eligible customer. The Company tracks sales by product number for each eligible customer and then applies the applicable rebate,

administrative fees and other percentage, using both historical trends and actual experience to estimate its rebates, administrative fees and others allowances. The Company reduces gross sales and increases the rebates, administrative fees and others allowance by the estimated rebates, administrative fees and others amounts when the Company sells its products to eligible customers. The Company reduces the rebate allowance when it processes a customer request for a rebate. At each balance sheet date, the Company analyzes the allowance for rebates, administrative fees and others against actual rebates processed and makes adjustments as appropriate. The amount of actual rebates processed can vary materially from period to period as discussed below.

The allowances for rebates, administrative fees and others further takes into consideration price adjustments which are credits issued to reflect increases or decreases in the invoice or contract prices of the Company's products. In the case of a price decrease, a shelf-stock adjustment credit may be given for product remaining in customer's inventories at the time of the price reduction. Contractual price protection results in a similar credit when the invoice or contract prices of the Company's products increase, effectively allowing customers to purchase products at previous prices for a specified period of time. Amounts recorded for estimated shelf-stock adjustments and price protections are based upon specified terms with direct customers, estimated changes in market prices, and estimates of inventory held by customers. The Company regularly monitors these and other factors and evaluates the reserve as additional information becomes available.

Similar to rebates, the reserve for administrative fees and others represents those amounts processed related to contracts and other fee programs which have been in place with certain entities, but they are settled through cash payment to these entities and accordingly are accounted for as a current liability. Otherwise, administrative fees and others operate similarly to rebates.

For the three month period ended June 30, 2017, the Company incurred a rebates, administrative fees and others provision of $109.8 million, or 19.4% of gross sales of $567.1 million, compared to $102.9 million, or 14.5% of gross sales of $708.4 million in the prior year period. We note that the dollar increase and percent increase from the comparative period was the result of gross sales decreases and product mix shifts to products with higher rebates, administrative fees and others expense percentages. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of contractual obligations, review of historical trends and evaluation of recent activity. Furthermore, other events that could materially alter rebates, administrative fees and others rates include: changes in product pricing as a result of competitive market dynamics or negotiations with customers, changes in demand for specific products due to external factors such as competitor supply position or consumer preferences, customer shifts in buying patterns from direct to indirect through wholesalers, which could either individually or in aggregate increase or decrease the rebate rate depending on the direction and velocity of the change(s).

To better understand the impact of changes in reserves for rebates, administrative fees and others based on circumstances that are not fully outside the Company's control, for instance, the proportion of direct to indirect sales subject to rebates, administrative fees and others, the Company performs a sensitivity analysis. Holding all other assumptions constant, for a 380 BP change in the ratio of sales subject to rebates, administrative fees and others to indirect sales would increase the reserve for rebates, administrative fees and others by $0.2 million or decrease the same reserve by $0.6 million depending on the direction of the change in the ratio. Fundamentally, the BP change calculation is determined based on the six month trend of the average ratio of sales subject to rebates, administrative fees and others to indirect sales. Due to the competitive generic pharmaceutical industry and our recent experience with wholesalers' strategy and shifts in contracted and non-contracted indirect sales, we believe the six month trend of the average ratio of sales subject to rebates, administrative fees and others to indirect sales provides a representative basis for sensitivity analysis.

Sales Returns: Certain of the Company's products are sold with the customer having the right to return the product within specified periods. Provisions are made at the time of sale based upon historical experience. Historical factors such as one-time recall events as well as pending new developments like comparable product approvals or significant pricing movement that may impact the expected level of returns are taken into account to determine the appropriate reserve estimate at each balance sheet date. As part of the evaluation of the reserve required, the Company considers actual returns to date that are in process, the expected impact of any product recalls and the amount of wholesaler's inventory to assess the magnitude of unconsumed product that may result in sales returns to the Company in the future. The sales returns level can be impacted by factors such as overall market demand and market competition and availability for substitute products which can increase or decrease the pull through for sales of the Company's products and ultimately impact the level of sales returns.

For the three month period ended June 30, 2017, the Company incurred a return provision of $8.1 million, or 1.4% of gross sales of $567.1 million, compared to $18.8 million, or 2.7% of gross sales of $708.4 million in the prior year

period. We note that the dollar decrease and percent decrease in the comparative period was the result of gross sales decreases and product mix shifts to products with higher return rates. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of historical trends and evaluation of recent activity. Furthermore, other events that could materially alter return rates include: acquisitions and integration activities that consolidate dissimilar contract terms and could decrease the return rate as typically the Company purchases smaller entities with less contracting power and integrates those product sales to Akorn contracts; and consumer demand shifts by products, which could either increase or decrease the return rate depending on the product or products specifically demanded and ultimately returned.

To better understand the impact of changes in return reserve based on certain circumstances, the Company performs a sensitivity analysis. Holding all other assumptions constant, for an average 1.0 month change in the lag from the time of sale to the time the product return is processed, this change would result in an increase of $1.6 million or decrease of $1.2 million in return reserve expense if the lag increases or decreases, respectively. The average 1.0 month change in the lag from the time of sale to the time the product return is processed was determined based on the average variances of the last six-month historical activities. Due to the change in the volume and type of products sold by the Company in the recent past, we have determined that the lag calculation provides a reasonable basis for sensitivity analysis.

Allowance for Coupons, Promotions and Co-Pay discount cards: The Company issues coupons from time to time that are redeemable against certain of our Consumer Health products. Upon release of coupons into the market, the Company records an estimate of the dollar value of coupons expected to be redeemed. This estimate is based on historical experience and is adjusted as needed based on actual redemptions. In addition to couponing, from time to time the Company authorizes various retailers to run in-store promotional sales of its products. Upon receiving confirmation that a promotion was run, the Company accrues an estimate of the dollar amount expected to be owed back to the retailer. This estimate is then adjusted to actual upon receipt of an invoice from the retailer. Additionally, the Company provides consumer co-pay discount cards, administered through outside agents to provide discounted products when redeemed. Upon release of the cards into the market, the Company records an estimate of the dollar value of co-pay discounts expected to be utilized. This estimate is based on historical experience and is adjusted as needed based on actual experience.

Doubtful Accounts: Provisions for doubtful accounts, which reflect trade receivable balances owed to the Company that are believed to be uncollectible, are recorded as a component of selling, general and administrative ("SG&A") expenses. In estimating the allowance for doubtful accounts, the Company considers its historical experience with collections and write-offs, the credit quality of its customers and any recent or anticipated changes thereto, and the outstanding balances and past due amounts from its customers. Note that in the ordinary course of business, and consistent with our peers, we may from time to time offer extended payment terms to our customers as an incentive for new product launches or in other circumstances in accordance with standard industry practices. These extended payment terms do not represent a significant risk to the collectability of accounts receivable as of the period-end and are evaluated in accordance with *Accounting Standards Codification* ("ASC") *605 - Revenue Recognition* as applicable. Accounts are considered past due when they remain uncollected beyond the due date specified in the applicable contract or on the applicable invoice, whichever is deemed to take precedence.

Advertising and Promotional Allowances to Customers: The Company routinely sells its over-the-counter Consumer Health products to major retail drug chains. From time to time, the Company may arrange for these retailers to run in-store promotional sales of the Company's products. The Company reserves an estimate of the dollar amount owed back to the retailer for these promotions, recording the amount as a reduction to revenue at the later of the date which the revenue is recognized or the date the sales incentive is offered. When the actual invoice for the sales promotion is received from the retailer, the Company adjusts its estimate accordingly. Advertising and promotional expenses paid to customers are expensed as incurred in accordance with *ASC 605-50 - Customer Payments and Incentives*.

Inventories: Inventories are stated at the lower of cost and net realizable value ("NRV") (see Note 5 - *Inventories, net*). The Company maintains an allowance for slow-moving and obsolete inventory as well as inventory where the cost is in excess of its NRV. For finished goods inventory, the Company estimates the amount of inventory that may not be sold prior to its expiration or is slow-moving based upon recent sales activity by unit and wholesaler inventory information. The Company also analyzes its raw material and component inventory for slow-moving items and NRV.

The Company capitalizes inventory costs associated with its products prior to regulatory approval when, based on management judgment, future commercialization is considered probable and future economic benefit is expected to be realized. The Company assesses the regulatory approval process and where the product stands in relation to that approval process including any known constraints or impediments to approval. The Company also considers the shelf life of the product in relation to the product timeline for approval.

Property, Plant and Equipment: Property, plant and equipment is stated at cost, less accumulated depreciation. Depreciation is provided using the straight-line method in amounts considered sufficient to amortize the cost of the assets to operations over their estimated useful lives.

Intangible Assets: Intangible assets consist primarily of goodwill, which is carried at its initial value, In-Process Research and Development ("IPR&D"), which is accounted for as an indefinite-lived intangible asset, subject to impairment testing until completion or abandonment of the project, and product licensing costs, trademarks and other such costs, which are capitalized and amortized on a straight-line basis over their useful lives, normally ranging from one year to thirty years. The Company regularly assesses its amortizable intangible assets for impairment based on several factors, including estimated fair value and anticipated cash flows. If the Company incurs additional costs to renew or extend the life of an intangible asset, such costs are added to the remaining unamortized cost of the asset, if any, and the sum is amortized over the extended remaining life of the asset. Goodwill is tested for impairment annually or more frequently if changes in circumstances or the occurrence of events suggest that impairment may exist. The Company uses widely accepted valuation techniques to determine the fair value of its reporting units used in its annual goodwill impairment analysis. The Company's valuation is primarily based on qualitative and quantitative assessments regarding the fair value of the reporting unit relative to its carrying value. The Company models the fair value of the reporting unit based on projected earnings and cash flows of the reporting unit.

Impairments of IPR&D are recorded within R&D expenses in the Consolidated Statements of Comprehensive Income, while all other impairments of intangible assets are recorded within the impairment of intangible assets line.

Net Income Per Common Share: Basic net income per common share is based upon the weighted average common shares outstanding. Diluted net income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect, if any, of stock options, restricted stock and convertible securities using the treasury stock and if converted methods. Anti-dilutive shares are excluded from the computation of diluted net income per share.

Income Taxes: Income taxes are accounted for under the asset and liability method. Deferred income tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities, and net operating loss and other tax credit carry-forwards. These items are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. The Company records a valuation allowance to reduce the deferred income tax assets to the amount that is more likely than not to be realized.

Fair Value of Financial Instruments: The Company applies *ASC 820 - Fair Value Measurement*, which establishes a framework for measuring fair value and clarifies the definition of fair value within that framework. *ASC 820 - Fair Value Measurement* defines fair value as an exit price, which is the price that would be received for an asset or paid to transfer a liability in the Company's principal or most advantageous market in an orderly transaction between market participants on the measurement date. The fair value hierarchy established in *ASC 820 - Fair Value Measurement* generally requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. Observable inputs reflect the assumptions that market participants would use in pricing the asset or liability and are developed based on market data obtained from sources independent of the reporting entity. Unobservable inputs reflect the entity's own assumptions based on market data and the entity's judgments about the assumptions that market participants would use in pricing the asset or liability, and are to be developed based on the best information available in the circumstances.

The valuation hierarchy is composed of three levels. The classification within the valuation hierarchy is based on the lowest level of input that is significant to the fair value measurement. The levels within the valuation hierarchy are described below:

- *Level 1*—Assets and liabilities with unadjusted, quoted prices listed on active market exchanges. Inputs to the fair value measurement are observable inputs, such as quoted prices in active markets for identical assets or liabilities. The carrying value of the Company's cash and cash equivalents and the portion of the value of the Nicox S.A. ("Nicox") shares which are available to be traded on the exchange are considered Level 1 assets.

- *Level 2*—Inputs to the fair value measurement are determined using prices for recently traded assets and liabilities with similar underlying terms, as well as directly or indirectly observable inputs, such as interest rates and yield curves that are observable at commonly quoted intervals. The Company has no Level 2 assets or liabilities in any of the periods presented.

- *Level 3*—Inputs to the fair value measurement are unobservable inputs, such as estimates, assumptions, and valuation techniques when little or no market data exists for the assets or liabilities. The portion of the fair

valuation of the available-for-sale investment held in shares of Nicox stock that is subject to a lock-up provision is considered a Level 3 asset. The additional consideration payable as a result of prior years' acquisitions and other insignificant contingent amounts are considered Level 3 liabilities.

The following table summarizes the basis used to measure the fair values of the Company's financial instruments (amounts in thousands):

		Fair Value Measurements at Reporting Date, Using:		
Description	**June 30, 2017**	**Quoted Prices in Active Markets for Identical Items (Level 1)**	**Significant Other Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Cash and cash equivalents	$ 322,742	$ 322,742	$ —	$ —
Nicox stock with lockup provisions	43	—	—	43
Total assets	$ 322,785	$ 322,742	$ —	$ 43
Purchase consideration payable	$ 4,994	$ —	$ —	$ 4,994
Total liabilities	$ 4,994	$ —	$ —	$ 4,994

Description	**December 31, 2016**	**Quoted Prices in Active Markets for Identical Items (Level 1)**	**Significant Other Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Cash and cash equivalents	$ 200,772	$ 200,772	$ —	$ —
Available-for-sale securities	1,106	1,074	—	32
Total assets	$ 201,878	$ 201,846	$ —	$ 32
Purchase consideration payable	$ 4,994	$ —	$ —	$ 4,994
Total liabilities	$ 4,994	$ —	$ —	$ 4,994

In 2014, the Company acquired Nicox stock fair valued at $12.5 million, consisting of an original cost basis of $10.8 million, discounted to reflect certain lockup provisions preventing immediate sale of the underlying shares received, and $1.7 million unrealized gain from the original costs basis of $10.8 million. From 2014 through December 31, 2016, the Company sold available-for-sale Nicox stock with a total original cost basis of $9.2 million and realized immaterial losses through these sales. During the three and six month periods ended June 30, 2017, the Company sold its remaining available-for-sale Nicox stock with an original cost basis of $1.5 million, realizing a gain of $0.2 million.

On May 31, 2017, the Company gained the right to receive additional Nicox stock fair valued at $3.0 million as a milestone payment. The Company received the additional shares of Nicox stock in early June 2017 and subsequently sold them later that month for net cash proceeds of $2.6 million. Both the $3.0 million milestone payment and the subsequent loss of $0.4 million on the sale of the Nicox shares were reported within Other non-operating income (expense), net in the Company's Condensed Consolidated Statement of Comprehensive Income for the three and six month periods end June 30, 2017.

The remaining purchase consideration payable is principally comprised of amounts owed relating to various prior years' acquisitions, at fair value as determined based on the underlying contracts and the Company's subjective evaluation of the additional consideration obligation estimate.

Stock-Based Compensation: Stock-based compensation cost is estimated at grant date based on the fair value of the award, and the cost is recognized as expense ratably over the vesting period. The Company uses the Black-Scholes model for estimating the grant date fair value of stock options. Determining the assumptions to be used in the model is highly subjective

and requires judgment. The Company uses an expected volatility that is based on the historical volatility of its common stock. The expected life assumption is based on historical employee exercise patterns and employee post-vesting termination behavior. The risk-free interest rate for the expected term of the option is based on the average market rate on U.S. Treasury securities of similar term in effect during the quarter in which the options were granted. The dividend yield reflects the Company's historical experience as well as future expectations over the expected term of the option. The Company estimates forfeitures at the time of grant and revises the estimate in subsequent periods, as necessary, if actual forfeitures differ from initial estimates.

Note 3 — Stock Options, Restricted Stock Units and Employee Stock Purchase Plan

The Company maintains equity compensation plans that allow the Company's Board of Directors to grant stock option and other equity awards to eligible employees, officers, directors and consultants. On April 27, 2017, the Company's shareholders voted to approve the Akorn, Inc. 2017 Omnibus Incentive Compensation Plan (the "Omnibus Plan"). Under the Omnibus Plan, 8.0 million shares of the Company's common stock were made available for issuance under equity awards. The Omnibus Plan replaced the Akorn, Inc. 2014 Stock Option Plan ("the 2014 Plan"), which was approved by shareholders at the Company's 2014 Annual Meeting of Shareholders on May 2, 2014 and subsequently amended by proxy vote of the Company's shareholders on December 16, 2016. The 2014 Plan had reserved 7.5 million shares for issuance upon the grant of stock options, restricted stock units ("RSUs"), or various other instruments to directors, employers and consultants. Following shareholder approval of the Omnibus Plan, no new awards may be granted under the 2014 Plan, although previously granted awards remain outstanding pursuant to their original terms. The 2014 Plan had replaced the Amended and Restated Akorn, Inc. 2003 Stock Option Plan (the "2003 Plan"), which expired on November 6, 2013.

The Company uses the single-award method for allocating compensation cost related to stock options to each period. The following table sets forth the components of the Company's share-based compensation expense for the three and six month periods ended June 30, 2017 and 2016 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Stock options	$ 2,956	$ 2,890	$ 6,270	$ 4,939
Employee stock purchase plan	275	—	537	—
Restricted stock units	1,904	635	3,037	1,507
Total stock-based compensation expense	$ 5,135	$ 3,525	$ 9,844	$ 6,446

Stock Option awards

From time to time, the Company has granted stock option awards to certain employees and directors, though no stock options were awarded during the second quarter 2017. The weighted-average assumptions used in estimating the grant date fair value of the stock options granted under the Company's equity compensation plans during the three and six month periods ended June 30, 2017 and 2016, respectively, along with the weighted-average grant date fair values, are set forth in the table below:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Expected volatility	—%	49%	50%	47%
Expected life (in years)	—	4.8	4.8	4.8
Risk-free interest rate	—%	1.19%	1.75%	1.26%
Dividend yield	—	—	—	—
Fair value per stock option	$ —	$ 10.31	$ 9.25	$ 9.97
Forfeiture rate	—%	8%	8%	8%

The table below sets forth a summary of stock option activity within the 2014 Plan and the 2003 Plan for the six month period ended June 30, 2017:

	Number of Options (in thousands)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (in thousands) (1)
Outstanding at December 31, 2016	4,766	$ 27.27	5.03	$ 5,714
Granted	66	21.28		
Exercised	(457)	15.44		
Forfeited	(112)	27.27		
Outstanding at June 30, 2017	4,263	$ 28.45	4.91	$ 28,735
Exercisable at June 30, 2017	1,549	$ 27.57	3.64	$ 12,706

(1) The Aggregate Intrinsic Value for stock options outstanding and exercisable is defined as the difference between the market value of the Company's common stock as of the date indicated and the exercise price of the stock options. Stock options for which the exercise price exceeded the market price have been omitted. Fluctuations in the intrinsic value of both outstanding and exercisable options may result from changes in underlying stock price and the timing and volume of option grants, exercises and forfeitures.

During the three and six month periods ended June 30, 2017, 0.4 million and 0.5 million stock options were exercised resulting in cash payments to the Company of $5.9 million and $7.1 million, respectively. These stock option exercises generated tax deductible expense of $6.1 million and $6.9 million, respectively. During the three and six month periods ended June 30, 2016, 1.5 million stock options were exercised resulting in cash payments to the Company of $9.9 million. These option exercises generated deductible expenses of $36.6 million.

Restricted Stock Unit awards

From time to time, the Company has granted RSUs to certain employees, executives and directors. Grants to employees and executives are pursuant to the Company's Long-Term Incentive Plans (the "LTIPs"). These LTIPs called for annual grants of RSUs to all eligible employees and executives. The RSUs awards vest 25% per year on each of the first four anniversaries of the grant date. All RSUs are valued at the closing market price of the Company's common stock on the day of grant and the total value of the units is recognized as expense ratably over the vesting period of the grants. During the six month period ended June 30, 2017, the Company granted 0.7 million RSUs to certain employees, executives and directors.

Set forth below is a summary of non-vested RSU activity during the six month period ended June 30, 2017:

	Number of Units (in thousands)	Weighted Average Per Share Grant Date Fair Value
Non-vested at December 31, 2016	416	$ 31.52
Granted	662	$ 33.10
Vested	(14)	$ 24.74
Forfeited	(25)	$ 30.62
Non-vested at June 30, 2017	1,039	$ 30.75

Employee Stock Purchase Plan

The 2016 Akorn, Inc. Employee Stock Purchase Plan (the "ESPP") permits eligible employees to acquire shares of the Company's common stock through payroll deductions. The ESPP has been structured to qualify under Section 423 of the Internal Revenue Code ("IRC"). Employees who elect to participate in the ESPP may withhold from 1% to 15% of eligible wages toward the purchase of stock. Shares will be purchased at a 15% discount off the lesser of the market price at the beginning or the ending of the applicable offering period. The ESPP is designed with two offering periods each year, one running from January 1st to December 31st and the other running from July 1st to December 31st. In a given year, employees may enroll in either offering period, but not both. Per IRC rules, annual purchases per employee are limited to $25,000 worth of stock, valued as of the beginning of the offering period. Accordingly, with the 15% discount, employees may withhold no more than $21,250 per year toward the purchase of stock under the ESPP. Employees are further limited to purchasing no more than 15,000 shares of stock per year. A total of 2.0 million shares of the Company's stock have been set aside for issuance under the ESPP. The ESPP was approved by vote of the Company's shareholders on December 16, 2016.

The initial offering period under the ESPP began in January 2017 and is scheduled to run through the end of the year. Pursuant to terms of the Merger Agreement, the Company did not have an ESPP offering period starting on July 1, 2017. During the six month period ended June 30, 2017, participants contributed approximately $1.7 million through payroll deductions toward the future purchase of shares under the ESPP.

Note 4 — Accounts Receivable, Sales and Allowances

The nature of the Company's business inherently involves, in the ordinary course, significant amounts and substantial volumes of transactions and estimates relating to allowances for product returns, chargebacks, rebates, doubtful accounts and discounts given to customers. This is typical of the pharmaceutical industry and is not necessarily specific to the Company. Depending on the product, the end-user customer, the specific terms of national supply contracts and the particular arrangements with the Company's wholesaler customers, certain rebates, chargebacks and other credits are deducted from the Company's accounts receivable. The process of claiming these deductions depends on wholesalers reporting to the Company the amount of deductions that were earned under the terms of the respective agreement with the end-user customer (which in turn depends on the specific end-user customer, each having its own pricing arrangement, which entitles it to a particular deduction). This process can lead to partial payments to the Company against outstanding invoices as the wholesalers take the claimed deductions at the time of payment.

With the exception of the provision for doubtful accounts, which is reflected as part of selling, general and administrative expense, the provisions for the following customer reserves are reflected as a reduction of revenues in the accompanying condensed consolidated statements of comprehensive income. Additionally, with the exception of administrative fees and others, which is included as a current liability, the ending reserve balances are included in trade accounts receivable, net in the Company's condensed consolidated balance sheets.

Net trade accounts receivable consists of the following (in thousands):

	June 30, 2017	December 31, 2016
Gross accounts receivable (1)	$ 370,504	$ 519,175
Less reserves for:		
Chargebacks (2)	(56,580)	(80,360)
Rebates (2)	(78,593)	(97,935)
Product returns	(47,749)	(43,689)
Discounts and allowances	(8,303)	(12,389)
Advertising and promotions	(932)	(688)
Doubtful accounts	(756)	(960)
Trade accounts receivable, net	$ 177,591	$ 283,154

(1) The reduction in the Gross accounts receivable balance as of June 30, 2017 when compared to the December 31, 2016 balance is due to higher Gross sales in the last two months of the fourth quarter of 2016 compared to the last two months of the second quarter of 2017.

(2) The reductions in the Chargebacks and Rebates balances as of June 30, 2017 when compared to the December 31, 2016 balance were primarily due to product, customer mix, price erosion and volume declines and payment timing. The price erosion and volume declines were due to increased industry pricing pressure and the competitive nature of our business.

For the three and six month periods ended June 30, 2017 and 2016, the Company recorded the following adjustments to gross sales (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Gross sales	$ 567,112	$ 708,368	$ 1,247,647	$ 1,301,759
Less adjustments for:				
Chargebacks (1)	(237,275)	(290,218)	(517,437)	(509,593)
Rebates, administrative and other fees (1)	(109,760)	(102,941)	(234,138)	(191,289)
Product returns	(8,116)	(18,799)	(16,533)	(23,086)
Discounts and allowances	(10,830)	(13,218)	(23,752)	(25,171)
Advertising, promotions and others	(1,991)	(2,458)	(3,227)	(3,539)
Revenues, net	$ 199,140	$ 280,734	$ 452,560	$ 549,081

(1) The decreases in chargebacks and increase in rebates, administrative and other fees for the three month periods ended June 30, 2017 as compared to the same period in 2016, were primarily due to product, customer mix, price erosion and volume declines. For the six months ended June 30, 2017 as compared to the same period in 2016, the increase in both chargebacks and rebates, administrative and other fees were primarily due to product, customer mix, price erosion and volume declines. The price erosion and volume declines were due to increased industry pricing pressure and the competitive nature of our business.

Note 5 — Inventories, Net

The components of inventories are as follows (in thousands):

	June 30, 2017	December 31, 2016
Finished goods	$ 75,585	$ 73,027
Work in process	12,677	14,719
Raw materials and supplies	93,287	87,047
Inventories, net	$ 181,549	$ 174,793

The Company maintains an allowance for excess and obsolete inventory, as well as inventory for which its cost is in excess of its net realizable value. Inventory at June 30, 2017 and December 31, 2016 was reported net of these reserves of $29.6 million and $33.5 million, respectively.

Note 6 — Property, Plant and Equipment, Net

Property, plant and equipment, net consist of the following (in thousands):

	June 30, 2017	December 31, 2016
Land and land improvements	$ 18,011	$ 17,410
Buildings and leasehold improvements	98,649	88,825
Furniture and equipment	173,299	160,546
Sub-total	289,959	266,781
Accumulated depreciation	(119,371)	(108,425)
Property, plant and equipment in service, net	$ 170,588	$ 158,356
Construction in progress (1)	106,348	80,048
Property, plant and equipment, net	$ 276,936	$ 238,404

(1) The increase in the Construction in progress balance as of June 30, 2017 when compared to the December 31, 2016 balance is primarily due to the increased spending on the serialization project, R&D and expansion initiatives at our Cranberry, India and Somerset facilities.

At June 30, 2017 and December 31, 2016, property, plant and equipment, net, with a net carrying value of $72.7 million and $65.1 million, respectively, was located outside the United States at the Company's manufacturing facilities in India and Switzerland.

The Company recorded depreciation expense of $5.8 million and $5.0 million during the three month periods ended June 30, 2017 and 2016 and $11.2 million and $11.0 million during the six month periods ended June 30, 2017 and 2016, respectively.

Note 7 — Goodwill and Other Intangible Assets, Net

The following table provides a summary of the activity in goodwill by segment for the three month period ended June 30, 2017 (in thousands):

	Consumer Health	Prescription Pharmaceuticals	Total
Balances at December 31, 2016	$ 16,717	$ 267,576	$ 284,293
Currency translation adjustments	—	761	761
Acquisitions	—	—	—
Impairments	—	—	—
Dispositions	—	—	—
Balances at June 30, 2017	$ 16,717	$ 268,337	$ 285,054

The following table sets forth the major categories of the Company's intangible assets as of June 30, 2017 and December 31, 2016, and the weighted average remaining amortization period as of June 30, 2017 and December 31, 2016 (dollar amounts in thousands):

	Gross Amount (1)	Accumulated Amortization	Reclass-ifications	Gross Impairment	Net Balance	Wtd Avg Remaining Amortization Period (years)
June 30, 2017						
Product licensing rights	$ 745,302	$ (208,649)		$ (6,468)	$ 530,185	10.1
IPR&D	173,757	—	—	(3,415)	170,342	N/A - Indefinite lived
Trademarks	16,000	(4,874)	—	—	11,126	18.0
Customer relationships	4,225	(1,928)	—	—	2,297	8.8
Other intangibles	11,235	(5,184)	—	—	6,050	5.9
	$ 950,519	$ (220,635)	$ —	$ (9,883)	$ 720,000	
December 31, 2016						
Product licensing rights	$ 790,143	$ (182,901)	$ 9,400	$ (52,637)	$ 564,005	10.5
IPR&D	187,007	—	(9,400)	(3,850)	173,757	N/A - Indefinite lived
Trademarks	16,000	(4,244)	—	—	11,756	18.0
Customer relationships	6,290	(3,863)	—	—	2,427	9.3
Other intangibles	11,235	(4,326)	—	—	6,909	6.0
	$ 1,010,675	$ (195,334)	$ —	$ (56,487)	$ 758,854	

(1) Differences in the Gross Amounts between periods are due to either impairment of assets or the write down of fully amortized assets.

The Company recorded amortization expense of $15.5 million and $16.4 million during the three month periods ended June 30, 2017 and 2016, and $31.0 million and $32.9 million during the six month periods ended June 30, 2017 and 2016, respectively.

Impairment of product licensing rights is stated at gross carrying cost of $6.5 million less accumulated amortization of $1.8 million as of the impairment date. Accordingly, the net impairment expense recognized in product licensing rights was $4.7 million for the six months ended June 30, 2017. Of the $4.7 million of impairment, $1.6 million was recognized in R&D

expense due to changes in market conditions expected upon launch of an asset acquired through the Hi-Tech acquisition and $3.1 million of impairment was related to changing market dynamics of a currently marketed product acquired through the VersaPharm acquisition. The Company also recognized impairment of IPR&D due to changes in the expected market conditions upon launch of one asset acquired in the VersaPharm acquisition of $3.2 million and a $0.2 million milestone payment related to the abandonment of the product (which was recognized in R&D expense) in the six month period ended June 30, 2017.

Note 8 — Financing Arrangements

Term Loans

During 2014, in order to finance its acquisitions of Hi-Tech Pharmacal Co Inc. and VersaPharm Inc., the Company entered into two term loan agreements (the "Term Loans") with certain lenders and with JPMorgan chase Bank, N.A., as administrative agent. The aggregate principal amount financed was $1,045.0 million. As of June 30, 2017, outstanding debt under the Term Loans was $831.9 million and the Company was in full compliance with all applicable covenants which included customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities. The Term Loans are scheduled to mature in 2021.

During the three and six month periods ended June 30, 2017, the Company amortized $1.3 million and $2.5 million, respectively of the Term Loans-related costs, resulting in $19.0 million remaining balance of deferred financing fees at June 30, 2017. The Company will amortize this balance using the effective interest method over the life of the Term Loan Agreements.

Subsequent to November 13, 2015, interest accrues based, at the Company's election, on an adjusted prime/federal funds rate ("ABR Loan") or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 4.00% for ABR Loans, and 5.00% for Eurodollar Loans. As of the date of the filing of this Form 10-Q until the maturity of the Term Loans, the Company's spread will be based upon the Ratings Level applicable on such date as documented below. As of the period ended June 30, 2017, the Company was a Ratings Level I for the Term Loan Agreements.

Ratings Level	Index Ratings (Moody's/S&P)	Eurodollar Spread	ABR Spread
Level I	B1/B+ or higher	4.25%	3.25%
Level II	B2/B	4.75%	3.75%
Level III	B3/B- or lower	5.50%	4.50%

For the three month periods ended June 30, 2017 and 2016, the Company recorded interest expense of $11.1 million and $10.4 million, respectively in relation to the Term Loans, while for the six month periods ended June 30, 2017 and 2016, the Company recorded interest expense of $22.0 million and $21.2 million, respectively in relation to the Term Loans.

JPMorgan Credit Facility

On April 17, 2014, the Akorn Loan Parties entered into a Credit Agreement (the "JPM Credit Agreement") with JPMorgan as administrative agent, and Bank of America, N.A., as syndication agent for certain other lenders (at closing, Bank of America, N.A. and Wells Fargo Bank, N. A.) for a $150.0 million revolving credit facility (the "JPM Revolving Facility").

As of June 30, 2017 the Company was in full compliance with all covenants applicable to the JPM Revolving Facility.

The Company may use any proceeds from borrowings under the JPM Revolving Facility for working capital needs and for the general corporate purposes of the Company and its subsidiaries. At June 30, 2017, there were no outstanding borrowings and one outstanding letter of credit in the amount of $2.6 million under the JPM Revolving Facility. Availability under the facility as of June 30, 2017 was $147.4 million.

The JPM Credit Agreement places customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities of the Akorn Loan Parties in a manner designed to protect the collateral while providing flexibility for growth and the historic business activities of the Company and its subsidiaries.

Debt Maturities Schedule

Aggregate cumulative maturities of long-term obligations (including the Term Loans and the JPM Revolving Facility) as of June 30, 2017 are:

(In thousands)	2017	2018	2019	2020	Thereafter
Maturities of debt	$ —	$ —	$ —	$ —	$ 831,938

Note 9 — Earnings Per Share

Basic net income per common share is based upon the weighted average number of common shares outstanding during the period. Diluted net income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect, if any, of potentially dilutive securities using the treasury stock method. Additionally, for the three and six month periods ended June 30, 2016, the earnings per share amount was calculated using the if-converted method to account for the dilutive impact of the Convertible Notes. The Convertible Notes matured in the quarter ended June 30, 2016.

The Company's potentially dilutive shares consist of: (i) vested and unvested stock options that are in-the-money, (ii) unvested RSUs, and (iii) for the three and six month periods ended June 30, 2016, shares potentially issuable upon conversion of the Notes.

A reconciliation of the earnings per share data from a basic to a fully diluted basis is detailed below (amounts in thousands, except per share data):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Net income	$ 2,537	$ 61,993	$ 43,564	$ 103,879
Convertible debt income adjustments, net of tax	—	443	—	1,047
Net income adjusted for convertible debt as used for diluted earnings per share	$ 2,537	$ 62,436	$ 43,564	$ 104,926
Net income per share:				
Basic	$ 0.02	$ 0.51	$ 0.35	$ 0.86
Diluted (1)	$ 0.02	$ 0.50	$ 0.35	$ 0.83
Shares used in computing net income per share:				
Weighted average basic shares outstanding	124,660	121,374	124,541	120,401
Dilutive securities:				
Stock option and unvested RSUs	534	1,365	314	1,474
Shares issuable upon conversion of the notes	—	3,185	—	4,059
Total dilutive securities	534	4,550	314	5,533
Weighted average diluted shares outstanding	125,194	125,924	124,855	125,934
Shares subject to stock options omitted from the calculation of income per share as their effect would have been anti-dilutive	2,268	2,430	3,991	2,740

(1) As a result of the Company's expectation that it would likely settle all future note conversions in shares of the Company's common stock, the diluted income from continuing operations per share calculation for the periods prior to the complete conversion of the convertible debt on June 1, 2016, included the dilutive effect of convertible debt and was offset by the exclusion of interest expense and deferred financing fees related to the convertible debt of $0.4 million and $1.0 million, after-tax for the three and six month periods ended June 30, 2016.

Note 10 — Segment Information

During the three and six month periods ended June 30, 2017 and 2016, the Company reported results for the following two reportable segments:

- Prescription Pharmaceuticals
- Consumer Health

The Company's Prescription Pharmaceuticals segment principally consists of generic and branded prescription pharmaceuticals products which span a broad range of indications as well as a variety of dosage forms including: sterile ophthalmics, injectables and inhalants, and non-sterile oral liquids, topicals and nasal sprays. The Company's Consumer Health segment principally consists of animal health and OTC products, both branded and private label. OTC products include, but are not limited to, a suite of products for the treatment of dry eye sold under the TheraTears® brand name.

Financial information about the Company's reportable segments is based upon internal financial reports that aggregate certain operating information. The Company's Chief Operating Decision Maker ("CODM"), as defined in *ASC 280 - Segment Reporting*, who is also the CEO, oversees operational assessments and resource allocations based upon the results of the Company's reportable segments, which have available and discrete financial information.

Selected financial information by reportable segment is presented below (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2017
Revenues, net:				
Prescription Pharmaceuticals	$ 182,645	$ 265,015	$ 420,024	$ 515,764
Consumer Health	16,495	15,719	32,536	33,317
Total revenues, net	199,140	280,734	452,560	549,081
Gross Profit:				
Prescription Pharmaceuticals	96,104	164,492	237,423	319,127
Consumer Health	6,863	7,281	14,676	15,663
Total gross profit	102,967	171,773	252,099	334,790
Operating expenses	88,437	79,405	162,736	154,843
Operating income	14,530	92,368	89,363	179,947
Other expenses, net	(7,780)	(12,093)	(17,287)	(33,100)
Income before income taxes	$ 6,750	$ 80,275	$ 72,076	$ 146,847

The Company manages its business segments to the gross profit level and manages its operating and other costs on a company-wide basis. Inter-segment activity at the gross profit level is minimal. The Company does not have discrete assets by segment, as certain manufacturing and warehouse facilities support more than one segment, and therefore does not report assets by segment. Financial information including revenues and gross profit from external customers by product or product line is not provided as to do so would be impracticable.

Note 11 – Share Repurchases

In July 2016, the Company announced that the Board of Directors authorized a stock repurchase program (the "Stock Repurchase Program") pursuant to which the Company may repurchase up to $200.0 million of the Company's common stock. The shares may be repurchased in open market transactions at prevailing market prices, in privately negotiated transactions or others, including accelerated stock repurchase arrangements, pursuant to a Rule 10b5-1 repurchase plan or by other means in accordance with federal securities laws. The timing and the amount of any repurchases will be determined by the Company's management based on its evaluation of market conditions, capital allocation alternatives, and other factors. There is no guarantee as to the number of shares that will be repurchased, and the repurchase program may be suspended or discontinued at any time without notice and at the Company's discretion, and at this time no estimate to the effect on the results of the Company due to the Stock Repurchase Program can be made.

The Company did not repurchase any shares during the six month period ended June 30, 2017, and had $155.0 million remaining under the repurchase authorization.

Companies incorporated under Louisiana law are subject to the Louisiana Business Corporation Act ("LBCA"). Provisions of the LBCA eliminate the concept of treasury stock and require that shares repurchased by a company are to be treated as authorized but unissued shares instead of treasury stock. As a result, all stock repurchases are presented as a reduction to issued and outstanding shares of common stock, the stated par value of common stock and retained earnings.

Note 12 — Commitments and Contingencies

The Company is subject to certain due-course complaints and claims arising out of its business, typically brought by competitors, suppliers, customers and others. In accordance with *ASC 450 - Contingencies*, the Company records reserves when loss is probable and the amount of loss can be reasonably estimated. As such, the Company believes that it has provided adequate reserves and that any matters currently pending will not materially affect the condensed, consolidated financials of the Company as of the period end.

Strategic Business Agreements

The Company has entered into strategic business agreements for the development and marketing of finished dosage form pharmaceutical products with various pharmaceutical development companies.

Each strategic business agreement includes a future payment schedule for contingent milestone payments and in certain strategic business agreements, minimum royalty payments. The Company will be responsible for contingent milestone payments and minimum royalty payments to these strategic business partners based upon the occurrence of future events. Each strategic business agreement defines the triggering event of its future payment schedule, such as meeting product development progress timelines, successful product testing and validation, successful clinical studies, various FDA and other regulatory approvals and other factors as negotiated. None of the contingent milestone payments or minimum royalty payments is individually material to the Company.

The Company is engaged in various supply agreements with third parties which obligate the Company to purchase various active pharmaceutical ingredients ("API") or finished products at contractual minimum levels. None of these agreements is individually or in aggregate material to the Company. Further, the Company does not believe at this time that any of the purchase obligations represent levels above that of normal business demands.

The table below summarizes contingent potential milestone payments projected to become payable to strategic partners in the years 2017 and beyond, assuming all such contingencies occur (in thousands):

Year ending December 31,		**Amount**
2017	$	5,285
2018		7,328
2019		4,820
2020 and Beyond		800
Total	$	18,233

Legal Proceedings

The Company is a party to legal proceedings and potential claims arising in the ordinary course of our business. The amount, if any, of ultimate liability with respect to such matters cannot be determined, but despite the inherent uncertainties of litigation, management of the Company believes that the ultimate disposition of such proceedings and exposure will not have a material adverse impact on the financial condition, results of operations, or cash flows of the Company. Set forth below are material updates to legal proceedings of the Company.

Shareholder and Derivative Litigation Related to the Merger

As previously disclosed, on May 2, 2017, a purported shareholder of the Company filed a complaint in a putative class and derivative action in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, captioned *Robert J. Shannon, Jr. v. Fresenius Kabi AG, et al.*, Case No. 2017-CH-06322. On May 16, 2017, a purported shareholder of the

Company filed a complaint in a putative class and derivative action in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, captioned *Daniel Ochoa v. John N. Kapoor, et al.*, Case No. 2017-CH-06928. On June 27, 2017, a purported shareholder of the Company filed a complaint in a putative class and derivative action in the Circuit Court of Cook County, Illinois, County Department, Chancery Division, captioned *Glaubach v. Fresenius Kabi AG et al.*, Cash No. 2017-CH-08916. The Shannon Action, Ochoa Action and Glaubach Action allege, among other things, that in pursuing the merger, the directors of the Company breached their fiduciary duties to the Company and its shareholders by, among other things, agreeing to enter into the merger agreement for an allegedly unfair price and as the result of an allegedly deficient process. The Shannon Action, the Ochoa Action and the Glaubach Action also allege that Fresenius Kabi, Fresenius Parent and Merger Sub aided and abetted the other defendants' alleged breaches of their fiduciary duties. The Shannon Action, the Ochoa Action and Glaubach Action seek, among other things, to enjoin the transactions contemplated by the merger agreement or, in the alternative, to recover monetary damages. On July 12, 2017, Akorn was informed by counsel for the plaintiff in the Ochoa Action that the plaintiff plans to voluntarily dismiss the action without prejudice.

On June 2, 2017, a purported shareholder of the Company filed a complaint in a putative class action in the United States District Court for the Middle District of Louisiana, captioned *Robert Berg v. Akorn, Inc., et al.*, Case No. 3:17-cv-00350. On June 7, 2017, a purported shareholder of the Company filed a complaint in a putative class action in the United States District Court for the Middle District of Louisiana, captioned *Jorge Alcarez v. Akorn, Inc., et al.*, Case No. 3:17-cv-00359. The Berg Action and the Alcarez Action alleged that the Company's preliminary proxy statement, filed with the SEC on May 22, 2017, omits material information with respect to the merger, rendering it false and misleading and thus that the Company, the directors of the Company and the CEO of the Company violated Section 14(a) of the Exchange Act as well as SEC Rule 14a-9. The Berg Action further alleged that Fresenius Kabi, the directors of the Company and the CEO of the Company violated Section 20(a) of the Exchange Act. Similarly, the Alcarez Action also alleged that the directors of the Company and the CEO of the Company violated Section 20(a) of the Exchange Act. The Berg Action and Alcarez Action sought, among other things, an order requiring the dissemination of a proxy statement that does not contain allegedly untrue statements of material fact and that states all material facts allegedly required or necessary to make the proxy statement not misleading; an order enjoining the transactions contemplated by the merger agreement; an award of rescissory damages should the merger be consummated; and an award of attorneys' fees and expenses.

On June 12, 2017, a purported shareholder of the Company filed a complaint in a putative class action in the United States District Court for the Middle District of Louisiana, captioned *Shaun A. House v. Akorn, Inc., et al.*, Case No. 3:17-cv-00367. On June 13, 2017, a purported shareholder of the Company filed a complaint in a putative class action in the United States District Court for the Northern District of Illinois, captioned *Robert Carlyle v. Akorn, Inc., et al.*, Case No. 1:17-cv-04455. On June 14, 2017, a purported shareholder of the Company filed a complaint in a putative class action in the United States District Court for the Middle District of Louisiana, captioned *Sean Harris v. Akorn, Inc. et at.,* Case No. 3:17-cv-00373. On June 22, 2017, a purported shareholder of the Company filed a complaint in a putative class action in the United States District Court for the Middle District of Louisiana, captioned *Demetrios Pullos v. Akorn, Inc. et al.*, Case No. 3:17-cv-00395. The House Action, the Carlyle Action, the Harris Action and the Pullos Action alleged that the Company's preliminary proxy statement, filed with the SEC on May 22, 2017, omits material information with respect to the merger, rendering it false and misleading and thus that the Company and the directors of the Company violated Section 14(a) of the Exchange Act as well as SEC Rule 14a-9. The House Action, the Carlyle Action, the Harris Action and the Pullos Action further alleged that the directors of the Company violated Section 20(a) of the Exchange Act. The House Action, the Harris Action and the Pullos Action sought, among other things, to enjoin the transactions contemplated by the merger agreement unless the Company discloses the allegedly material information that was allegedly omitted from the proxy statement, an award of damages and an award of attorneys' fees and expenses. The Carlyle Action sought, among other things, to enjoin the transactions contemplated by the merger agreement unless the Company adopts and implements a procedure or process to obtain certain unspecified terms for shareholders and discloses the allegedly material information that was allegedly omitted from the proxy statement, rescission, to the extent already implemented, of the transactions contemplated by the merger agreement or of the terms thereof, an award of damages and an award of attorneys' fees and expenses.

On July 5, 2017, the United States District Court for the Middle District of Louisiana ordered that the Berg Action, Alcarez Action, House Action, Carlyle Action, Harris Action and Pullos Action be transferred to the United States District Court for the Northern District of Illinois.

On July 14, 2017, the plaintiffs in the Berg Action, Alcarez Action, House Action, Harris Action, Carlyle Action and Pullos Action filed stipulations of voluntary dismissal without prejudice in their respective actions. On July 17, 2017, the United States District Court for the Northern District of Illinois dismissed the Alcarez Action, the Harris Action and the Pullos Action without prejudice pursuant to the parties' respective stipulations of voluntary dismissal. Also on July 17, 2017, the United States District Court for the Northern District of Illinois granted the voluntary dismissal of the Carlyle Action without prejudice pursuant to the parties' stipulation of voluntary dismissal. On July 19, 2017, the United States District Court for the Northern District of

Illinois granted the voluntary dismissal without prejudice of the Berg Action pursuant to the parties' stipulation of voluntary dismissal.

The Company believes that the Shannon Action, Ochoa Action and the Glaubach Action are without merit and intends to vigorously defend them.

Other Matters

On April 7, 2017, a jury in the State Court of Houston County in the State of Georgia reached a verdict of $20.5 million in damages against Akorn, Inc. in the product liability case *Ann Pope and Anthony Pope v. Horatio V. Cabasares, M.D., Horatio V. Cabasares, M.D., P.C. Houston Healthcare Systems, Inc., Akorn Sales, Inc., and Akorn, Inc.* in which plaintiff claimed Akorn provided inadequate labeling on its product methylene blue. The Company maintains sufficient product liability insurance coverage for the defense costs and expenses as well as the verdict related to this case. Further, on April 27, 2017, Akorn filed a motion for a new trial and intends to appeal, thereby challenging liability as well as the compensatory and punitive damage awards.

Four shareholder derivative lawsuits have been filed alleging breaches of fiduciary duty in connection with the Company's accounting for its acquisition and the restatement of its financials. Two of the derivative lawsuits, *Safriet v. Rai, et al., No. 15-cv-7275*, and *Glaubach v. Rai, et al., No. 15-11129*, were filed in the U.S. District Court for the Northern District of Illinois. These cases have been consolidated into a single action, and the defendants filed a motion to dismiss on July 10, 2017. A third lawsuit, *Kogut v. Akorn, Inc., et al., No. 646174*, was filed in Louisiana state court in the Parish of East Baton Rouge, on March 8, 2016. On June 10, 2016, the plaintiff filed an amended complaint asserting shareholder derivative claims similar to the others asserted in the other derivative lawsuits. On September 23, 2016, the Company filed a motion to dismiss the case. Briefing on that motion is not yet complete. A fourth lawsuit, *Miller v. Rai, et al., No. 16 CH 1363*, was filed on September 8, 2016 in Illinois state court in the Circuit Court of Lake County. On July 5, 2017, the plaintiff voluntarily dismissed the case.

The Louisiana Attorney General filed suit, Number 624,522, *State of Louisiana v. Abbott Laboratories, Inc., et al.,* in the Nineteenth Judicial District Court, Parish of East Baton Rouge, Louisiana state court, including Hi-Tech Pharmacal and other defendants. Louisiana's complaint alleges that the defendants violated Louisiana state laws in connection with Medicaid reimbursement for certain vitamins, dietary supplements, and DESI products that were allegedly ineligible for reimbursement. The defendants filed exceptions of no cause of action and no right of action in response to Louisiana's amended complaint resulting in a judgment entered on October 2, 2015, which dismissed all of Louisiana's claims. Louisiana sought appellate review of the court's decision. On October 21, 2016, the First Circuit Court of Appeal affirmed the trial court's judgment in part, reversed it in part, and remanded the case for further proceedings. On December 22, 2016, the First Circuit denied Louisiana's application for rehearing with respect to the First Circuit's affirmance. On January 20, 2017, Louisiana filed an application for certiorari in the Louisiana Supreme Court as to the portion of the First Circuit's decision affirming the trial court's judgment. On January 23, 2017, the defendants filed an application for certiorari in the Louisiana Supreme Court as to the portion of the First Circuit's decision reversing the trial court's judgment. On March 13, 2017, the Louisiana Supreme Court denied both writ applications. On May 11, 2017, the defendants filed an exception of no cause of action in response to Louisiana's amended complaint, which seeks the dismissal of Louisiana's two remaining statutory claims.

The legal matters discussed above and others could result in losses, including damages, fines and civil penalties, and criminal charges, which could be substantial. We record accruals for these contingencies to the extent that we conclude that a loss is both probable and reasonably estimable. Regarding the aforementioned labeling verdict related to methylene blue, the Company recorded a reasonable estimate of the liability less than the verdict amount (for which a corresponding insurance receivable is also recorded). Regarding the other matters disclosed above, the Company has determined that liabilities associated with these legal matters are reasonably possible but they cannot be reasonably estimated. Given the nature of the litigation and investigations and the complexities involved, the Company is unable to reasonably estimate a possible loss for such matters until the Company knows, among other factors, (i) what claims, if any, will survive dispositive motion practice, (ii) the extent of the claims, including the size of any potential class, particularly when damages are not specified or are indeterminate, (iii) how the discovery process will affect the litigation, (iv) the settlement posture of the other parties to the litigation and (v) any other factors that may have a material effect on the litigation or investigation. However, we could incur judgments, enter into settlements or revise our expectations regarding the outcome of certain matters, and such developments could have a material adverse effect on our results of operations in the period in which the amounts are accrued and/or our cash flows in the period in which the amounts are paid.

Note 13 — Customer, Supplier and Product Concentration

Customer Concentration

A significant percentage of the Company's sales are to three wholesale drug distributors: AmerisourceBergen Corporation; Cardinal Health, Inc. and McKesson Corporation. These three wholesalers (the "Big 3 Wholesalers") are all distributors of the Company's products, as well as suppliers of a broad range of health care products.

The following table sets forth the percentage of the Company's gross and net sales for the three and six month periods ended June 30, 2017 and 2016, and the percentage of the Company's gross accounts receivable as of June 30, 2017 and December 31, 2016, attributable to the Big 3 Wholesalers:

	Three Months Ended June 30,		Six Months Ended June 30,	
Big 3 Wholesalers combined:	**2017**	**2016**	**2017**	**2016**
Percentage of gross sales	81%	76%	80%	78%
Percentage of net revenues	62%	70%	63%	69%

	June 30, 2017	December 31, 2016
Percentage of gross trade accounts receivable	85%	84%

If sales to any of the Big 3 Wholesalers were to diminish or cease, the Company believes that the end users of its products would have little difficulty obtaining the Company's products either directly from the Company or from another distributor.

No other customers accounted for more than 10% of gross sales, net revenues or gross trade receivables for the indicated dates and periods.

Supplier Concentration

The Company requires a supply of quality raw materials and components to manufacture and package pharmaceutical products for its own use and for third parties with which it has contracted. The principal components of the Company's products are active and inactive pharmaceutical ingredients and certain packaging materials. Certain of these ingredients and components are available from only a single source and, in the case of certain of the Company's abbreviated new drug applications and new drug applications, only one supplier of raw materials has been identified. Because FDA approval of drugs requires manufacturers to specify their proposed suppliers of active ingredients and certain packaging materials in their applications, FDA approval of any new supplier would be required if active ingredients or such packaging materials were no longer available from the specified supplier. The qualification of a new supplier could delay the Company's development and marketing efforts. In addition, certain of the pharmaceutical products marketed by the Company are manufactured by a partnered third party manufacturer, which serves as the Company's sole source of that finished product. If for any reason the Company is unable to obtain sufficient quantities of any of the raw materials or components required to produce and package its products, it may not be able to manufacture its products as planned, which could have a material adverse effect on the Company's business, financial condition and results of operations. Likewise, if the Company's manufacturing partners experience any similar difficulties in obtaining raw materials or in manufacturing the finished product, the Company's results of operations would be negatively impacted.

No individual supplier represented 10% or more of the Company's purchases in either of the three and six month periods ended June 30, 2017 or 2016.

Product Concentration

In the three month period ended June 30, 2017, none of the Company's products represented greater than 10% of its total net sales revenue, while one Prescription Pharmaceutical product represented approximately 13% of the Company's total net sales revenue in the six month period ended June 30, 2017. Comparatively, in the three and six month periods ended June 30, 2016, one Prescription Pharmaceutical product represented approximately 19% and 21%, respectively of the Company's total net sales revenue. The Company attempts to minimize the risk associated with product concentrations by continuing to acquire and develop new products to add to its existing portfolio.

Note 14 — Income Taxes

The following table sets forth information about the Company's income tax provision for the periods indicated (dollar amounts in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2017	2016	2017	2016
Income before income taxes	$ 6,750	$ 80,275	$ 72,076	$ 146,847
Income tax provision	4,213	18,282	28,512	42,968
Net income	$ 2,537	$ 61,993	$ 43,564	$ 103,879
Income tax provision as a percentage of income before income taxes	62.4%	22.8%	39.6%	29.3%

During the three month periods ended June 30, 2017 and 2016, the Company recorded an income tax provision of $4.2 million and $18.3 million, or 62.4% and 22.8% of income before income taxes, respectively, while during the six month periods ended June 30, 2017 and 2016, the Company recorded an income tax provision of $28.5 million and $43.0 million, or 39.6% and 29.3% of income before income tax in the applicable periods, respectively. The increase in the income tax provision rate as a percentage of income before income tax in the quarter and year to date period ended June 30, 2017 was principally the result of a decrease in the amount of tax deductible stock options exercised in the second quarter of 2017 from the same period in 2016 and an increase in the valuation allowance on tax benefits from losses at the Company's Indian subsidiary in the three month period ended June 30, 2017. The Company anticipates that its effective tax rate will be approximately 40.0% for the year 2017.

As of June 30, 2017, the Company could not conclude that it was more likely than not that tax benefits from certain foreign net operating losses would be realized. Accordingly, as of the six months ended of June 30, 2017, the Company increased its valuation allowance to $12.7 million for certain of the losses at its Indian subsidiary and the entire amount of the loss at its Swiss subsidiary, compared to a valuation allowance of $9.9 million as of December 31, 2016.

In accordance with ASC 740-10-25, *Income Taxes - Recognition*, the Company reviews its tax positions to determine whether it is "more likely than not" that its tax positions will be sustained upon examination, and if any tax positions are deemed to fall short of that standard, the Company establishes reserves based on the financial exposure and the likelihood that its tax positions would not be sustained. Based on its evaluations, the Company determined that it would not recognize tax benefits on $1.5 million and $1.3 million related to uncertain tax positions as of June 30, 2017 and December 31, 2016, respectively. If recognized, $1.3 million of these tax positions will impact the Company's effective rate with the remaining $0.2 million affecting goodwill.

Note 15 – Related Party Transactions

During the three month periods ended June 30, 2017 and 2016, the Company obtained legal services totaling $0.2 million and $0.3 million, while during the six month periods ended June 30, 2017 and 2016, the Company obtained legal services totaling $0.6 million and $0.6 million respectively, of which $0.3 million and $0.1 million was payable as of June 30, 2017 and 2016, respectively, to Polsinelli PC, a law firm for which the spouse of the Company's Executive Vice President, General Counsel and Secretary is an attorney and shareholder.

The Company also paid legal services totaling $0.1 million and $0.3 million during the three and six month periods ended June 30, 2017 to Segal McCambridge Singer & Mahoney, a firm for which the brother in law of the Company's Executive Vice President, General Counsel and Secretary is a partner.

Note 16 – Recently Issued and Adopted Accounting Pronouncements

Recently Issued Accounting Pronouncements

In May 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. *2017-9, Compensation — Stock Compensation (Topic 718): Scope of Modification Accounting*, which provides guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in Topic 718. Per the ASU, an entity should account for the effects of a modification unless all the following are met: (1) The fair value (or calculated value or intrinsic value, if such an alternative measurement method is used) of the modified award is the

same as the fair value (or calculated value or intrinsic value, if such an alternative measurement method is used) of the original award immediately before the original award is modified. If the modification does not affect any of the inputs to the valuation technique that the entity uses to value the award, the entity is not required to estimate the value immediately before and after the modification, (2) The vesting conditions of the modified award are the same as the vesting conditions of the original award immediately before the original award is modified, and (3) The classification of the modified award as an equity instrument or a liability instrument is the same as the classification of the original award immediately before the original award is modified. The current disclosure requirements in Topic 718 apply regardless of whether an entity is required to apply modification accounting under the amendments in this ASU. The ASU is effective for public business entities for annual and interim periods in fiscal years beginning after December 15, 2017. Early adoption is permitted, including adoption in any interim period, for (1) public business entities for reporting periods for which financial statements have not yet been issued and (2) all other entities for reporting periods for which financial statements have not yet been made available for issuance. The amendments in this ASU should be applied prospectively to an award modified on or after the adoption date. The Company is currently evaluating the impact that *ASU 2017-9* will have on its statement of financial position or financial statement disclosures.

In August 2016, the FASB issued *ASU 2016-15, Statement of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments*. This standard amends and adjusts how cash receipts and cash payments are presented and classified in the statement of cash flows. *ASU 2016-15* is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years and will require adoption on a retrospective basis unless impracticable. If impracticable the Company would be required to apply the amendments prospectively as of the earliest date possible. The Company is currently evaluating the impact that *ASU 2016-15* will have on its statement of financial position or financial statement disclosures.

In February 2016, the FASB issued *ASU 2016-02 - Leases,* which establishes a comprehensive new lease accounting model. The new standard clarifies the definition of a lease and causes lessees to recognize leases on the balance sheet as a lease liability with a corresponding right-of-use asset for leases with a lease term of more than one year. *ASU 2016-02* is effective for financial statements issued for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted. The new standard requires a modified retrospective transition for capital or operating leases existing at or entered into after the beginning of the earliest comparative period presented in the financial statements, but it does not require transition accounting for leases that expire prior to the date of initial application. Upon adoption, the operating leases reporting in Note 9 - Leasing Arrangements, will be reported on the statement of financial position as gross-up assets and liabilities. The Company is currently evaluating the impact that *ASU 2016-02* will have on its statement of financial position or financial statement disclosures.

Revenue Recognition Related ASUs:

In February 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. *2017-05 - Other Income—Gains and Losses from the Derecognition of Nonfinancial Assets (Subtopic 610-20): Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets.* The amendments in this ASU address the recognition of gains and losses on the transfer (i.e., sale) of nonfinancial (and in substance nonfinancial) assets to counterparties other than customers. The ASU conforms the derecognition guidance on nonfinancial assets with the model for transactions in the new revenue standard (ASC 606, as amended). The amendments are effective at the same time as the new revenue standard. For public entities that means annual periods beginning after December 15, 2017 and interim periods therein.

In December 2016, the FASB issued *ASU 2016-20, Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers.* The amendments in this ASU affect narrow aspects of the guidance in *ASU 2014-09*, which is not yet effective. The amendments in this ASU address loan guarantee fees, impairment testing of contract costs, provisions for losses on construction-type and production-type contracts, and various disclosures. The effective date and transition requirements for the amendments are the same as the effective date and transition requirements for Topic 606 (and any other Topic amended by *ASU 2014-09*). *ASU 2015-14*, *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date*, defers the effective date of *ASU 2014-09* by one year.

In May 2016, the FASB issued *ASU 2016-12 - Narrow-Scope Improvements and Practical Expedients*. This standard amends the guidance in *ASU 2014-09* to specifically provide a practical expedient for reflecting contract modifications at transition. The effective date for *ASU 2016-12* is the same as the effective date for *ASU 2014-09*, *ASU 2015-14*, *ASU 2016-08* and *ASU 2016-10*.

In April 2016, the FASB issued *ASU 2016-10 - Revenue from Contracts with Customers (Topic 606) — Identifying Performance Obligations and Licensing*. This standard amends the guidance in *ASU 2014-09* and *ASU 2016-08* specifically

related to identifying performance obligations and accounting for licenses of intellectual property. The effective date for *ASU 2016-10* is the same as the effective date for *ASU 2014-09*, *ASU 2015-14* and *ASU 2016-08*.

In March 2016, the FASB issued *ASU 2016-08 - Revenue from Contracts with Customers: Principal versus Agent Considerations*. The amendments of this standard are intended to improve the operability and understandability of the implementation guidance on principal versus agent considerations. The effective date for *ASU 2016-08* is the same as the effective date for *ASU 2014-09* and *ASU 2015-14*.

In August 2015, the FASB issued *ASU No. 2015-14 - Revenue from Contracts with Customers (Topic 606) - Deferral of the Effective Date*, which defers the effective date of *ASU 2014-09* for one year and permits early adoption as early as the original effective date of *ASU 2014-09*. The new revenue standard may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as of the date of adoption.

In May 2014, FASB issued *ASU 2014-09 - Revenue from Contracts with Customers*, which provides guidance for revenue recognition. *ASU 2014-09* affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets and supersedes the revenue recognition requirements in *ASC 605 - Revenue Recognition*, and most industry-specific guidance. This ASU also supersedes some cost guidance included in *ASC 605-35 - Revenue Recognition-Construction-Type and Production-Type Contracts*. The standard's core principle is to recognize revenue when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods or services. The ASU defines a five step process to achieve this core principle and, in doing so, more judgment and estimates may be required within the revenue recognition process than are required under existing U.S. GAAP. These may include identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. The Company may adopt the new standard under the full retrospective approach or the modified retrospective approach, as permitted under the standard. Early adoption of the standard is not permitted. This ASU and related updates are effective for annual reporting periods beginning after December 15, 2017, including interim reporting periods within that reporting period.

We completed an initial review of the contracts for our three largest customers to determine the impact that *ASU 2014-09* and its subsequent updates through December 31, 2016 will have on the Company's consolidated financial statements or financial statement disclosures upon adoption. Based on our preliminary review, we believe that the timing and measurement of revenue for these customers will be similar to our current revenue recognition. However, this view is preliminary and could change based on the detailed analysis associated with the conversion and implementation phases of our *ASU 2014-09* project. We will complete our assessment during 2017, and will include other significant wholesale and retail customers as part of the review.

Recently Adopted Accounting Pronouncements

In January 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. *2017-04 - Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. This ASU simplifies the subsequent measurement of goodwill, the FASB eliminated Step 2 from the goodwill impairment test. Under the amendments in this ASU, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, an entity should consider income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss, if applicable. The FASB also eliminated the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. Therefore, the same impairment assessment applies to all reporting units. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. An entity still has the option to perform the qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary. A public business entity that is an SEC filer should adopt the amendments in this Update for its annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. *ASU 2017-04* was early adopted by the Company for the year beginning January 1, 2017 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In January 2017, the FASB issued *ASU 2017-01 - Business Combinations (Topic 805): Clarifying the Definition of a Business.* This standard changes the definition of a business to assist entities with evaluating when a set of transferred assets and activities is a business. The amendments in this ASU provide a screen to determine when a set is not a business. The screen requires that when substantially all of the fair value of the gross assets acquired (or disposed of) is concentrated in a

single identifiable asset or a group of similar identifiable assets, the set is not a business. This screen reduces the number of transactions that need to be further evaluated. If the screen is not met, the amendments in this ASU (1) require that to be considered a business, a set must include, at a minimum, an input and a substantive process that together significantly contribute to the ability to create output and (2) remove the evaluation of whether a market participant could replace missing elements. The amendments provide a framework to assist entities in evaluating whether both an input and a substantive process are present. The framework includes two sets of criteria to consider that depend on whether a set has outputs. Although outputs are not required for a set to be a business, outputs generally are a key element of a business; therefore, the FASB has developed more stringent criteria for sets without outputs. Lastly, the amendments in this Update narrow the definition of the term output so that the term is consistent with how outputs are described in Topic 606. The ASU is effective for public business entities for annual periods beginning after December 15, 2017, including interim periods within those periods. The amendments in this Update should be applied prospectively on or after the effective date. No disclosures are required at transition. Early application of the amendments in this Update is allowed as follows: (1) for transactions for which the acquisition date occurs before the issuance date or effective date of the amendments, only when the transaction has not been reported in financial statements that have been issued or made available for issuance and (2) for transactions in which a subsidiary is deconsolidated or a group of assets is derecognized that occur before the issuance date or effective date of the amendments, only when the transaction has not been reported in financial statements that have been issued or made available for issuance. *ASU 2017-01* was early adopted by the Company for the year beginning January 1, 2017 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In July 2015, the FASB issued *ASU 2015-11 - Inventory. ASU 2015-11 simplifies the measurement of inventory by requiring inventory to be measured at the lower of cost and net realizable value*. *ASU 2015-11* is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. *ASU 2015-11* was adopted by the Company for the year beginning January 1, 2017 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In August 2014, the FASB issued *ASU 2014-15 - Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern*, to provide guidance on management's responsibility in evaluating whether there is substantial doubt about a company's ability to continue as a going concern and to provide related footnote disclosures. *ASU 2014-15* is effective for financial statements issued for fiscal years ending after December 15, 2016, and interim periods thereafter. *ASU 2014-15 - Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern* was adopted by the Company for the year ending December 31, 2016. In connection with the preparation of the financial statements for the three month period ended June 30, 2017, the Company conducted an evaluation as to whether there were conditions and events, considered in the aggregate, which raised substantial doubt as to the entity's ability to continue as a going concern within one year after the date of the issuance, or the date of availability, of the financial statements to be issued, noting that there did not appear to be evidence of substantial doubt of the entity's ability to continue as a going concern.

In March 2016, the FASB issued *ASU 2016-09 - Compensation - Stock Compensation*, which simplifies the accounting for the tax effects related to stock based compensation, including adjustments to how excess tax benefits and a company's payments for tax withholdings should be classified, amongst other items. *ASU 2016-09* is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years with early adoption permitted. *ASU 2016-09* was early adopted by the Company for the year beginning January 1, 2016 and resulted in various effects, most notably a reduction in income tax expense of $11.4 million due to stock option exercises in the year ended December 31, 2016.

In November 2015, the FASB issued *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* to simplify the presentation of deferred income taxes. *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* requires that deferred tax liabilities and assets be classified as noncurrent in a classified statement of financial position. *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* was early adopted by the Company for the year beginning January 1, 2016 resulting in the reclassification of the current portion of deferred tax assets to non-current deferred tax assets for the years ended December 31, 2016 and 2015.

In September 2015, the FASB issued *ASU 2015-16 - Business Combinations. ASU 2015-16 - Business Combinations* simplifies the accounting for measurement-period adjustments by requiring adjustments to provisional amounts in a business combination to be recognized in the reporting period in which the adjustment amounts are determined and eliminates the requirement to retrospectively account for those adjustments. *ASU 2015-16 - Business Combinations* requires an entity to present separately on the face of the income statement or disclose in the notes the amount recorded in current-period earnings that would have been recorded in previous reporting periods if the adjustment to the provisional amounts had been recognized as of the acquisition date. *ASU 2015-16 - Business Combinations* was adopted by the Company for the year

beginning January 1, 2016 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In April 2015, the FASB issued *ASU 2015-03 - Interest - Imputation of Interest*, which simplifies the presentation of debt issuance costs by requiring that debt issuance costs be presented in the balance sheet as a direct deduction from the carrying amount of debt liability, consistent with debt discounts or premiums. *ASU 2015-03* is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years. *ASU 2015-03* was adopted by the Company for the year beginning January 1, 2016 resulting in the reclassification of the deferred financing fees to the respective face value of debt outstanding for the year ended December 31, 2016.

Note 17 – Subsequent Events

Submission of Matters to a Vote of Security Holders

On July 19, 2017, the Company held a special meeting (the "Special Meeting") of holders of the common stock. The proposal to approve the Agreement and Plan of Merger, dated as of April 24, 2017, by and among Fresenius Kabi AG, a German stock corporation, Quercus Acquisition, Inc., a Louisiana corporation and a wholly owned subsidiary of Fresenius Kabi AG, the Company, and, solely for purposes of Article VIII thereof, Fresenius SE & Co. KGaA, a German partnership limited by shares was approved at the Special Meeting.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

FORWARD-LOOKING STATEMENTS AND FACTORS AFFECTING FUTURE RESULTS

Certain statements in this Form 10-Q are forward-looking in nature and are intended to be "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements relate to future events or future financial performance. In some cases, you can identify forward-looking statements by terminology such as "may," "should," "will," "could," "expects," "plans," "intends," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of such terms or other comparable terminology. Any forward-looking statements, including statements regarding our intent, beliefs or expectations are not guarantees of future performance. These statements are subject to risks and uncertainties and actual results, levels of activity, performance or achievements may differ materially from those in the forward-looking statements as a result of various factors. See "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2016, as filed with the SEC on March 1, 2017, in our Form 10-Q filed on May 4, 2017, and in this Form 10-Q, which include, but are not limited to, the following items:

- Certain of our key products, including Ephedrine Sulfate Injection, Clobetasol Propionate Ointment and Lidocaine Ointment, have recently experienced, and may continue to experience increased competition, which has resulted in, and could continue to result in declines in both pricing and volume
- Our growth depends on our ability to timely and efficiently develop and successfully launch and market new pharmaceutical products
- We could experience business interruptions at our manufacturing facilities
- We may be subject to significant disruptions or failures in our information technology systems and network infrastructures
- We may be subject to supply disruptions and may be unable to resolve them in a timely or cost-effective manner
- Our inability to effectively manage or support our growth
- The loss or failure of third party manufacturers as a significant portion of our revenues are generated through the sale of these products
- The loss or failure of any of the small number of wholesalers we use to distribute our products
- We depend on our employees and must continue to attract and retain key personnel in order to compete successfully, and any failure to do so could hinder successful execution of our business and development plans

- We have entered into several strategic business alliances that may not result in marketable products
- Failure to obtain regulatory certification of our manufacturing facility in India for production of pharmaceutical products for export to the United States, as well as other regulated world markets
- We may not achieve the anticipated benefits from our acquisitions and we may face integration difficulties
- We become involved in legal proceedings from time to time
- We may incur charges to earnings resulting from acquisitions
- The Chairman of our Board of Directors, through his stock ownership and his right to nominate up to two other directors, could have an adverse effect on the market value of our stock and have substantial influence over our business strategies and policies
- The loss of single-sourced raw materials and components used in our products
- Sales of our products may be adversely affected by the continuing consolidation of our customer base
- Changes in technology could render our products obsolete
- Our branded products may become subject to increased generic competition
- We are subject to extensive government regulations which if they change and or we are not in compliance with, could increase our costs, subject us to various obligations and fines, or prevent us from selling our products or operating our facilities
- Changes in healthcare law and policy changes may adversely affect our business plans and results of operations
- The FDA may require us to stop marketing certain unapproved drugs
- Any failure to comply with the complex reporting and payment obligations under Medicare, Medicaid and other government programs may result in litigation or sanctions
- Failure to comply with the U.S. Foreign Corrupt Practices Act could subject us to, among other things, penalties and legal expenses that could harm our reputation and have a material adverse effect on our business, financial condition and operating results
- The FDA may authorize sales of some prescription pharmaceuticals on a non-prescription basis, which may reduce the profitability of our prescription products
- Third parties may claim that we infringe their proprietary rights and may prevent or delay us from manufacturing and selling some of our new products
- Our patents and proprietary rights may be challenged, circumvented or otherwise compromised by competitors, which may result in our protected products losing their market exclusivity and becoming subject to generic competition before their patents expire
- We have previously identified, reported and remediated material weaknesses, and may identify new material weaknesses in the future
- The restatement of our previously issued 2014 financial statements and the previous delay in our filing of 2015 financial statements has resulted in various governmental investigations and shareholder lawsuits and could result in government enforcement actions, which could have a material adverse impact on our results of operations, financial condition, liquidity, and cash flows
- We may need to obtain additional capital to continue to grow our business

- We may not generate cash flow sufficient to pay interest and make required principal repayments on our Term Loans
- Our indebtedness reduces our financial and operating flexibility
- Exercise of options and granting of restricted stock units, may have a substantial dilutive effect on our common stock
- The risk that the proposed merger with Fresenius Kabi may not be completed in a timely manner or at all
- The possibility that any or all of the various conditions to the consummation of the merger may not be satisfied or waived, including the failure to receive any required regulatory approvals from any applicable governmental entities (or any conditions, limitations or restrictions placed on such approvals)
- The occurrence of any event, change or other circumstance that could give rise to the termination of the Merger Agreement, including in circumstances which would require Akorn to pay a termination fee or other expenses
- The effect of the announcement or pendency of the transactions contemplated by the Merger Agreement on Akorn's ability to retain and hire key personnel, its ability to maintain relationships with its customers, suppliers and others with whom it does business, or its operating results and business generally
- Risks related to diverting management's attention from Akorn's ongoing business operations
- The risk that shareholder litigation in connection with the transactions contemplated by the Merger Agreement may result in significant costs of defense, indemnification and liability

If any of these risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary significantly from what we projected or as compared to prior periods. As a result, you should not place undue reliance on any forward-looking statements. Any forward-looking statement you read in the following Management's Discussion and Analysis of Financial Condition and Results of Operations reflects our current views with respect to future events and is subject to these and other risks, uncertainties, and assumptions relating to our operations, results of operations, growth strategy, and liquidity. Unless required by law, we undertake no obligation to publicly update any forward-looking statements for any reason, whether as a result of new information, future events, or otherwise.

RESULTS OF OPERATIONS

The following table sets forth the amounts and percentages of total revenue for certain items from our Condensed Consolidated Statements of Comprehensive Income and our segment reporting information for the three and six months ended June 30, 2017 and 2016 (dollar amounts in thousands):

	Three Months Ended June 30,				Six Months Ended June 30,			
	2017		2016		2017		2016	
	Amount	% of Revenue	Amount	% of Revenue	Amount	% of Revenue	Amount	% of Revenue
Revenues, net:								
Prescription Pharmaceuticals	$ 182,645	91.7 %	$ 265,015	94.4 %	$ 420,024	92.8 %	$ 515,764	93.9 %
Consumer Health	16,495	8.3 %	15,719	5.6 %	32,536	7.2 %	33,317	6.1 %
Total revenues, net	199,140	100.0 %	280,734	100.0 %	452,560	100.0 %	549,081	100.0 %
Gross profit:								
Prescription Pharmaceuticals	96,104	52.6 %	164,492	62.1 %	237,423	56.5 %	319,127	61.9 %
Consumer Health	6,863	41.6 %	7,281	46.3 %	14,676	45.1 %	15,663	47.0 %
Total gross profit	102,967	51.7 %	171,773	61.2 %	252,099	55.7 %	334,790	61.0 %
Operating expenses:								
SG&A expenses	53,922	27.1 %	53,971	19.2 %	101,449	22.4 %	103,057	18.8 %
Acquisition-related costs	76	— %	136	— %	87	— %	333	0.1 %
R&D expenses	15,877	8.0 %	8,868	3.2 %	27,167	6.0 %	18,347	3.3 %
Amortization of intangible assets	15,504	7.8 %	16,430	5.9 %	30,975	6.8 %	32,948	6.0 %
Impairment of intangible assets	3,058	1.5 %	—	— %	3,058	0.7 %	158	— %
Operating income	$ 14,530	7.3 %	$ 92,368	32.9 %	$ 89,363	19.7 %	$ 179,947	32.8 %
Other expense, net	(7,780)	(3.9)%	(12,093)	(4.3)%	(17,287)	(3.8)%	(33,100)	(6.0)%
Income before income taxes	6,750	3.4 %	80,275	28.6 %	72,076	15.9 %	146,847	26.7 %
Income tax provision	4,213	2.1 %	18,282	6.5 %	28,512	6.3 %	42,968	7.8 %
Net income	$ 2,537	1.3 %	$ 61,993	22.1 %	$ 43,564	9.6 %	$ 103,879	18.9 %

THREE MONTHS ENDED June 30, 2017 COMPARED TO THREE MONTHS ENDED June 30, 2016

Net revenue was $199.1 million for the three month period ended June 30, 2017, representing a decrease of $81.6 million, or 29.1%, as compared to net revenue of $280.7 million for the three month period ended June 30, 2016. In the second quarter of 2017, the Company experienced a significant decline in net revenue primarily due to the prior loss of exclusivity of one of its major products, Ephedrine Sulfate Injection. While the volume decline of Ephedrine Sulfate Injection was mostly anticipated, the price decline due to incremental competition in 2017 was more severe than expected. Other key products, such as Clobetasol Propionate Ointment and Lidocaine Ointment, also experienced large declines in both pricing and volumes as a result of increased competition. In addition, the Company experienced more than normal supply disruptions for certain products during the quarter, resulting in lower net revenue. The Company expects the negative impact on net revenue from these supply disruptions to lessen throughout the remainder of year. Other products were not affected by these factors and, as a result, the net revenue for the remainder of the portfolio was essentially flat and is expected to remain stable for the rest of 2017. However, the Company was unable to offset the overall net revenue decline through new business opportunities or new product launches. Key product launches that have been delayed, are still expected to launch in late 2017 or early 2018.

The decrease in net revenue in the period was primarily due to $83.2 million decline in organic revenue, which is defined as revenue from products with sales cycles of at least five quarters. The $83.2 million decline in organic revenue was due to approximately $17.5 million and $65.7 million in price erosion and volume declines, respectively.

The Prescription Pharmaceuticals segment revenues of $182.6 million for the three month period ended June 30, 2017 represented a decrease of $82.4 million, or 31.1%, as compared to revenue of $265.0 million for three month period ended June 30, 2016.

The Consumer Health segment revenues of $16.5 million for the three month period ended June 30, 2017 represented an increase of $0.8 million, or 4.9%, as compared to revenue of $15.7 million for three month period ended June 30, 2017.

The net revenue for the three month period ended June 30, 2017 of $199.1 million were net of adjustments totaling $368.0 million for chargebacks, rebates, administrative fees and others, product returns, discounts and allowances and advertising, promotions and other. Chargeback expenses for the three month period ended June 30, 2017 were $237.3 million, or 41.8% of gross sales, compared to $290.2 million, or 41.0% of gross sales for three month period ended June 30, 2016. The $52.9 million decrease in chargeback expense was due to the impact of lower gross sales in the current period as compared to prior year same period. Rebates, administrative fees and other expenses for the three month period ended June 30, 2017 were $109.8 million, or 19.4% of gross sales, compared to $102.9 million, or 14.5% for three month period ended June 30, 2016. The $6.8 million increase in rebates, administrative fees and other expenses was due to the impact of product and customer mix. Our product returns provision for the three month period ended June 30, 2017 was $8.1 million, or 1.4% of gross sales, compared to $18.8 million, or 2.7% of gross sales for the three month period ended June 30, 2016. Discounts and allowances were $10.8 million or 1.9% of gross sales for the three month period ended June 30, 2017, compared to $13.2 million, or 1.9% of gross sales for the three month period ended June 30, 2016. Advertisement and promotion expenses were $2.0 million or 0.4% of gross sales for the three month period ended June 30, 2017, compared to $2.5 million, or 0.3% of gross sales for the three month period ended June 30, 2016.

Consolidated gross profit for the quarter ended June 30, 2017 was $103.0 million, or 51.7% of net revenue, compared to $171.8 million, or 61.2% of net revenue, in the corresponding prior year quarter. The decline in the gross profit percentage is principally due to unfavorable product mix shifts driven by the loss of exclusivity of one of our major products.

Total operating expenses were $88.4 million in the three month period ended June 30, 2017, an increase of $9.0 million, or 11.4%, from the prior year quarter, which was primarily driven by approximately $7.9 million attributed to increases in impairment of Product licensing rights and IPR&D that was due to changing market dynamics. A decrease in restatement expenses of $11.9 million for the three month period ended June 30, 2017, compared to the same period in 2016, was partly offset by $8.6 million of Merger Agreement related acquisition expenses incurred during the three month period ended June 30, 2017.

In the three month period ended June 30, 2017, the Company incurred non-operating expenses totaling $7.8 million compared to $12.1 million in the prior year quarter. This decrease of $4.3 million was primarily driven by $2.6 million increase in other non-operating income attributed to receipt and subsequent sale of the Nicox securities the Company received as a milestone payment in the second quarter of 2017, and $1.4 million decrease in interest expense resulting from the conversion of outstanding convertible notes during the second quarter of 2016. As a percentage of net revenues, non-operating expenses decreased to 3.9% in the three month period ended June 30, 2017 compared to 4.3% in the prior year quarter.

For the three month period ended June 30, 2017, we recorded an income tax provision of $4.2 million on our income before income tax of $6.8 million or an effective tax provision rate of 62.4%. In the prior year quarter ended June 30, 2016, our income tax provision was $18.3 million based on an effective tax provision rate of 22.8%. The increase in the income tax provision rate as a percentage of income before income tax in the quarter ended June 30, 2017 was principally the result of a decrease in the amount of tax deductible stock options exercised in the second quarter of 2017 from the same period in 2016 and an increase in the valuation allowance on tax benefits from losses at the Company's Indian subsidiary in the three month period ended June 30, 2017.

We reported net income of $2.5 million for the three month period ended June 30, 2017, or 1.3% of net revenue, compared to net income of $62.0 million for the three month period ended June 30, 2016, or 22.1% of net revenue.

SIX MONTHS ENDED JUNE 30, 2017 COMPARED TO SIX MONTHS ENDED JUNE 30, 2016

Net revenue was $452.6 million for the six month period ended June 30, 2017, representing a decrease of $96.5 million, or 17.6%, as compared to net revenue of $549.1 million for the six month period ended June 30, 2016. The decrease in net revenue in the period was primarily due to $98.8 million decline in organic revenue. The $98.8 million decline in organic revenue was due to approximately $25.1 million and $73.7 million in price erosion and volume declines, respectively. The organic sale revenue decline was principally due to the loss of exclusivity of one of our major products as well as pricing pressure on other key products due to the competitive nature of our business.

The Prescription Pharmaceuticals segment revenues of $420.0 million for the six month period ended June 30, 2017 represented a decrease of $95.7 million, or 18.6%, as compared to revenue of $515.8 million for six month period ended June 30, 2016.

The Consumer Health segment revenues of $32.5 million for the six month period ended June 30, 2017 represented a decrease of $0.8 million, or 2.3%, as compared to revenue of $33.3 million for three month period ended June 30, 2016.

The net revenue for the six month period ended June 30, 2017 of $452.6 million were net of adjustments totaling $795.1 million for chargebacks, rebates, administrative fees and others, product returns, discounts and allowances and advertising, promotions and other. Chargeback expenses for the six month period ended June 30, 2017 were $517.4 million, or 41.5% of gross sales, compared to $509.6 million, or 39.1% of gross sales for six month period ended June 30, 2016. The $7.8 million increase in chargeback expense was due to the impact of product and customer mix. Rebates, administrative fees and other expenses for the six month period ended June 30, 2017 were $234.1 million, or 18.8% of gross sales, compared to $191.3 million, or 14.7% of gross sales for six month period ended June 30, 2016. The $42.8 million increase in rebates, administrative fees and other expenses was due to the impact of product and customer mix. Our product returns provision for the three month period ended June 30, 2017 was $16.5 million, or 1.3% of gross sales, compared to $23.1 million, or 1.8% of gross sales for the six month period ended June 30, 2016. Discounts and allowances were $23.8 million or 1.9% of gross sales for the six month period ended June 30, 2017, compared to $25.2 million, or 1.9% of gross sales for the six month period ended June 30, 2016. Advertisement and promotion expenses were $3.2 million or 0.3% of gross sales for the six month period ended June 30, 2017, compared to $3.5 million, or 0.3% of gross sales for the six month period ended June 30, 2016.

Consolidated gross profit for the quarter ended June 30, 2017 was $252.1 million, or 55.7% of net revenue, compared to $334.8 million, or 61.0% of net revenue, in the corresponding prior year period. The decline in the gross profit percentage is principally due to unfavorable product mix shifts driven by the loss of exclusivity of one of our major products.

Total operating expenses were $162.7 million in the six month period ended June 30, 2017, an increase of $7.9 million, or 5.1%, from the comparative prior year period despite a $20.4 million decrease in restatement related expenses. The decrease in restatement related expenses was more than offset by increases in Merger Agreement related acquisition expenses incurred during 2017, impairment of intangibles, payroll related expenses and R&D expenses of approximately $8.5 million, $8.1 million, $6.0 million and $3.1 million, respectively.

In the six month period ended June 30, 2017, the Company incurred non-operating expenses totaling $17.3 million compared to $33.1 million in the comparative prior year period. This decrease of $15.8 million was primarily driven by $6.9 million decrease in other non-operating expense, net of which $2.6 million is attributed to receipt and subsequent sale of the Nicox securities that the Company received as a milestone payment in the second quarter of 2017, $5.6 million decrease in amortization of deferred financing costs, and $3.3 million decrease in interest expense resulting from the $200.0 million partial term loan repayment made during the first quarter of 2016 and the conversion of outstanding convertible notes during the second quarter of 2016. As a percentage of net revenues, non-operating expenses decreased to 3.8% in the six month period ended June 30, 2017 compared to 6.0% in the corresponding prior year period.

For the six month period ended June 30, 2017, we recorded an income tax provision of $28.5 million on our income before income tax of $72.1 million or an effective tax provision rate of 39.6%. In the prior year quarter ended June 30, 2016, our income tax provision was $43.0 million based on an effective tax provision rate of 29.3%. The increase in the income tax provision rate as a percentage of income before income tax in the quarter ended June 30, 2017 was principally the result of a decrease in the amount of tax deductible stock options exercised in the second quarter of 2017 from the same period in 2016 and an increase in the valuation allowance on tax benefits from losses at the Company's Indian subsidiary in the three month period ended June 30, 2017.

We reported net income of $43.6 million for the six month period ended June 30, 2017, or 9.6% of net revenues, compared to net income of $103.9 million for the six month period ended June 30, 2016, or 18.9% of net revenues.

FINANCIAL CONDITION AND LIQUIDITY

As of June 30, 2017, we had cash and cash equivalents of $322.7 million, which were $122.0 million more than our cash and cash equivalents balance of $200.8 million as of December 31, 2016. This increase in cash and cash equivalents was driven by operating cash inflows of $160.0 million and financing cash inflows of $6.9 million, partially offset by investing cash outflows of $45.5 million. Our net working capital was $575.0 million at June 30, 2017, compared to $510.3 million at December 31, 2016, an increase of $64.8 million.

Operating Cash Flows

(amounts in thousands)	Six Months Ended June 30,	
	2017	**2016**
OPERATING ACTIVITIES:		
Consolidated net income	$ 43,564	$ 103,879
Adjustments to reconcile consolidated net income to net cash provided by operating activities:		
Depreciation and amortization	42,212	44,111
Amortization of debt financing costs	2,608	8,152
Impairment of intangible assets	8,079	158
Non-cash stock compensation expense	9,844	6,446
Non-cash interest expense	—	764
Income from Available for sale securities	(3,032)	—
Deferred income taxes, net	(2,341)	(9,724)
Loss on sale of available-for-sale securities	196	45
Other	(288)	(780)
Changes in operating assets and liabilities:		
Trade accounts receivable	105,848	(54,296)
Inventories, net	(6,225)	(2,652)
Prepaid expenses and other current assets	3,076	(23,421)
Trade accounts payable	(13,465)	4,778
Accrued expenses and other liabilities	(30,051)	(41,383)
NET CASH PROVIDED BY OPERATING ACTIVITIES	$ 160,025	$ 36,077

During the year to date period ended June 30, 2017, operating activities generated $160.0 million in cash flows. This positive cash flow was principally the result of our consolidated net income of $43.6 million, a decrease of $105.8 million in accounts receivable, a net inflow from non-cash expenses of $57.4 million, a decrease in prepaid expenses and other current assets of $3.1 million, offset by a $13.5 million decrease in trade payable, and a decrease of $30.1 million in accrued expenses and an increase of $6.2 million in inventories, net.

During the year to date period ended June 30, 2016, operating activities generated $36.1 million in cash flows. This positive cash flow was principally the result of our consolidated net income of $103.9 million and a $49.9 million net inflow of non-cash expenses. This increase was offset by $41.4 million decrease in accrued expenses and other liabilities, a $54.3 million increase in trade accounts receivable, an increase of $23.4 million in prepaid expenses and other current assets and an increase of $2.7 million in inventories, net.

Investing Cash Flows

(amounts in thousands)	Six Months Ended June 30,	
	2017	**2016**
INVESTING ACTIVITIES:		
Proceeds from disposal of assets	$ 4,811	$ 5,966
Payments for intangible assets	(200)	(3,375)
Purchases of property, plant and equipment	(50,072)	(29,726)
NET CASH USED IN INVESTING ACTIVITIES	$ (45,461)	$ (27,135)

We used $45.5 million in investing activities during the year to date period ended June 30, 2017, consisting of $50.1 million used to acquire fixed assets, partially offset by $4.8 million of inflows from the sales of investments in available-for-sale securities and disposal of fixed assets.

We used $27.1 million in investing activities during the year to date period ended June 30, 2016, consisting of $29.7 million used to acquire fixed assets and $3.4 million used to acquire other intangible assets, partially offset by $6.0 million from the sales of investments in available-for-sale securities.

Financing Cash Flows

(amounts in thousands)	Six Months Ended June 30,	
	2017	**2016**
FINANCING ACTIVITIES:		
Proceeds from the exercise of stock options	$ 6,897	$ 6,176
Debt financing costs	—	(5,128)
Debt payments	—	(200,000)
NET CASH PROVIDED BY(USED IN) FINANCING ACTIVITIES	$ 6,897	$ (198,952)

Financing activities generated $6.9 million in the year to date period ended June 30, 2017, from employee stock option exercise proceeds.

Financing activities used $199.0 million in the year to date period ended June 30, 2016, consisting of $200.0 million principal repayment on its debt and $5.1 million from the payment of debt financing costs incurred due to the consent waivers obtained in the period, partially offset by $6.2 million in proceeds under various option exercises.

Liquidity and Capital Needs

We require certain capital resources in order to maintain and expand our business. Our future capital expenditures may include substantial projects undertaken to upgrade, expand and improve our manufacturing facilities, in the U.S., India and Switzerland. Most notably we have previously, and continue to expend significant amounts in order to gain compliance with FDA requirements at AIPL. Furthermore, the Company expects to expend significant amounts in order to comply with the Drug Supply Chain Security Act ("DSCSA") by the implementation date in November 2017 and also intends to increase research and development spend through greater headcount. Our cash obligations include the principal and interest payments due on our Term Loans and any amount we may borrow under the JPMorgan Facility (as both described throughout this report) and the amount required to effect the repurchase of shares of our common stock in accordance with the Stock Repurchase Program discussed in Item 1, Note 11 - "*Share Repurchases*." As of June 30, 2017, the Company had $155.0 million remaining under the repurchase authorization. We believe that our cash reserves, operating cash flows, and availability under our credit facilities will be sufficient to finance any future expansions and meet our cash needs for the foreseeable future.

In the second quarter of 2017, the Company committed to make a strategic investment of approximately $23 million in a direct-to-consumer campaign through print and media advertisements for its TheraTears® line of over-the-counter dry eye relief products. Of this amount, approximately $14 million is planned to be invested in the fourth quarter of 2017. See also Note 1 and the description of the Merger Agreement.

Refer to Item 1, Note 8 - "*Financing Arrangements*" for further detail of debt obligations as of and for the quarter ended June 30, 2017.

CRITICAL ACCOUNTING POLICIES

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. A summary of our significant accounting policies is included in Part II - Item 8, Note 2 - "*Summary of Significant Accounting Policies"*, in our Annual Report on Form 10-K for the year ended December 31, 2016 and in Item 1, Note 2 - "*Summary of Significant Accounting Policies*" of this Form 10-Q. Certain of our accounting policies are considered critical, as these policies require significant, difficult or complex judgments by management, often requiring the use of estimates about the effects of matters that are inherently uncertain.

The Company consolidates the financial statements of its foreign subsidiaries in accordance with *ASC 830 - Foreign Currency Matters*, under which the statement of operations amounts are translated from Indian rupees (“INR”) and Swiss Francs (“CHF”), respectively, to U.S. Dollars at the average exchange rate during the applicable period, while balance sheet

amounts are generally translated at the exchange rate in effect as of the applicable balance sheet date. Cash flows are translated at the average exchange rate in place during the applicable period. Differences arising from foreign currency translation are included in accumulated other comprehensive loss and are carried as a separate component of equity on our condensed consolidated balance sheets.

OFF-BALANCE SHEET ARRANGEMENTS

We do not have any off-balance sheet arrangements that have had, or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

There has been no material change in the information reported under Part II, Item 7A - "*Quantitative and Qualitative Disclosures About Market Risk*" in our Form 10-K for the fiscal year ended December 31, 2016.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, for the three month period ended June 30, 2017.

Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures were effective at a reasonable assurance level for the purpose of ensuring that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act is (a) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and (b) accumulated and communicated to management including the CEO and CFO, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

In prior filings, we identified and reported a material weakness in the Company's internal control over financial reporting related to our internal controls over the accounting for indefinite-lived IPR&D-related intangible assets. We have now executed our remediation plan and testing procedures.

We believe that we have designed and implemented the appropriate controls to fully remediate the material weakness. These controls include additional procedures related to the review of assumptions and data inputs, as well as the review of the results and documentation of the IPR&D indefinite-lived intangible assets impairment analysis. We also believe the Company has now demonstrated the effectiveness of the new processes for a sufficient period of time to be considered remediated. Therefore, all remedial actions as described fully in our 2016 Form 10-K, as filed on March 1, 2017, including the efforts to test the necessary control activities we identified, are fully completed.

Changes in Internal Control Over Financial Reporting

As described above, we have designed and implemented additional controls in connection with our remediation plan. Other than these additional controls, there were no changes in our internal control over financial reporting (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, for the three month period ended June 30, 2017 that has materially affected, or is reasonably likely to materially affect the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

The Company's disclosure of legal proceedings within Part I - Item 1, Note 12 - "*Commitments and Contingencies*" of this Report, is incorporated into this Part II - Item 1 by reference.

Item 1A. Risk Factors.

Other than the risk factors described in our Form 10-Q filed on May 4, 2017, and below, there have been no material changes to the risk factors disclosed in Part 1 - Item 1A, of our Form 10-K for the year ended December 31, 2016.

There are material uncertainties and risks associated with the proposed Merger Agreement and Merger.

On April 24, 2017, we signed the Merger Agreement with Fresenius Kabi. Below are material uncertainties and risks associated with the Merger Agreement and the proposed Merger. If any of the risks develop into actual events, then our business, financial condition, results and ongoing operations, stock price or prospects could be materially adversely affected.

- The announcement or pendency of the Merger may impede Akorn's ability to retain and hire key personnel, its ability to maintain relationships with its customers, suppliers and others with whom it does business, or its operating results and business generally;
- The attention of our employees and management may be diverted due to activities related to the Merger, which may affect our business operations;
- Matters relating to the transactions (including integration planning) may require substantial commitments of time and resources by Akorn management, which could harm our relationships with our employees, customers, distributors, suppliers or other business partners, and may result in a loss of or a substantial decrease in purchases by our customers;
- The Merger Agreement restricts us from engaging in certain actions without the approval of Fresenius Kabi, which could prevent us from pursuing certain business opportunities outside the ordinary course of business that arise prior to the closing of the Merger;
- The Merger Agreement contains provisions that could discourage a potential competing acquirer of Akorn;
- The directors and executive officers of Akorn have interests in the Merger that may be different from, or in addition to, those of other Akorn shareholders, which could have influenced their decisions to support or approve the Merger; and
- Shareholder litigation in connection with the transactions contemplated by the Merger Agreement may result in significant costs of defense, indemnification and liability.

The proposed Merger may not be completed in a timely manner or at all.

Completion of the Merger is subject to customary closing conditions, including (1) the approval of the Merger Agreement by the affirmative vote of the holders of at least a majority of all outstanding shares, (2) there being no judgment or law enjoining or otherwise prohibiting the consummation of the Merger, (3) the expiration of the waiting period applicable to the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. The obligation of each of the Company and Fresenius Kabi to consummate the Merger is also conditioned on the other party's representations and warranties being true and correct (subject to certain materiality exceptions) and the other party having performed in all material respects its obligations under the Merger Agreement. There is no assurance that the required regulatory approvals will be obtained, nor that the required closing conditions will be satisfied, and no assurance can be given as to the terms, conditions and timing of any approvals. Competing offers or acquisition proposals for Akorn may be made, resulting in delay of the Merger or termination of the Merger Agreement. Lawsuits have been filed and threatened against Akorn relating to the Merger and an adverse ruling in any such lawsuit may prevent the Merger from being completed in the time frame expected or at all. If the Merger is delayed or not completed, we may suffer a number of consequences, including a decline in our share price to the extent that the current price of our common stock reflects an assumption that the merger will be completed; negative publicity and a negative impression of us in the investment community and loss of business opportunities. Further, we have incurred, and will continue to incur, significant costs, expenses and fees for professional advisors, printing and other transaction costs in connection with the Merger, and these fees and costs are payable by us regardless of whether the Merger is consummated. In some cases, a termination of the Merger Agreement will require Akorn to pay Fresenius Kabi a termination fee and additional expenses. In addition, Akorn could be subject to litigation related to any failure to consummate the Merger or any related action that could be brought to enforce a party's obligation under the Merger Agreement.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

The list of exhibits in the Exhibit Index to this Report is incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

AKORN, INC.

/s/ DUANE A. PORTWOOD

Duane A. Portwood
Chief Financial Officer
(on behalf of the registrant and as its Principal Financial Officer)

Date: July 31, 2017

EXHIBIT INDEX

Those exhibits marked with a (*) refer to exhibits filed herewith. The other exhibits are incorporated herein by reference, as indicated in the following list. Those exhibits marked with a (†) refer to management contracts or compensatory plans or arrangements. Portions of the exhibits marked with a (Ω) are the subject of a Confidential Treatment Request under 17 C.F.R. §§ 200.80(b)(4), 200.83 and 240.24b-2. Omitted material for which confidential treatment has been requested has been filed separately with the SEC.

Exhibit No.	Description
2.1	Agreement and Plan of Merger By and Among Fresenius Kabi AG, Quercus Acquisition, Inc., Akorn, Inc. and Fresenius SE & Co. KGAA dated as of April 24, 2017, incorporated by reference to Exhibit 2.1 to the report on Form 8-K filed by Akorn, Inc. on April 24, 2017.
2.2	Voting Agreement dated as of April 24, 2017, among Fresenius Kabi AG, Dr. John N. Kapoor and certain affiliates of Dr. Kapoor that are shareholders of Akorn, Inc., incorporated by reference to Exhibit 2.2 to the report on Form 8-K filed by Akorn, Inc. on April 24, 2017.
2.3	Voting Agreement dated as of April 24, 2017, among Fresenius Kabi AG, Rajat Rai and an affiliate of Mr. Rai that is a shareholder of Akorn, Inc., incorporated by reference to Exhibit 2.3 to the report on Form 8-K filed by Akorn, Inc. on April 24, 2017.
2.4	Voting Agreement dated as of April 24, 2017, between Fresenius Kabi AG and Joseph Bonaccorsi, incorporated by reference to Exhibit 2.4 to the report on Form 8-K filed by Akorn, Inc. on April 24, 2017.
2.5	Voting Agreement dated as of April 24, 2017, between Fresenius Kabi AG and Dr. Bruce Kutinsky, incorporated by reference to Exhibit 2.5 to the report on Form 8-K filed by Akorn, Inc. on April 24, 2017.
3.1	By-Laws of Akorn, Inc., as amended on April 24, 2017, incorporated by reference to Exhibit 3.1 to the report on Form 10-Q filed by Akorn, Inc. on May 4, 2017.
31.1 *	Certification of Chief Executive Officer pursuant to Rule 13a-14(a).
31.2 *	Certification of Chief Financial Officer pursuant to Rule 13a-14(a).
32.1 *	Certification of Chief Executive Officer pursuant to 18 U.S.C. § 1350.
32.2 *	Certification of Chief Financial Officer pursuant to 18 U.S.C. § 1350.
101 *	The financial statements and footnotes from the Akorn, Inc. Quarterly Report on Form 10-Q for the three and six month periods ended June 30, 2017, filed on July 31, 2017, formatted in XBRL: (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Comprehensive Income, (iii) Condensed Consolidated Statement of Shareholders' Equity, (iv) Condensed Consolidated Statements of Cash Flows, and (v) Notes to Condensed Consolidated Financial Statements.

EXHIBIT 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Rajat Rai, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Akorn, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ RAJAT RAI

Rajat Rai

Chief Executive Officer

Date: July 31, 2017

EXHIBIT 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Duane A. Portwood, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Akorn, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DUANE A. PORTWOOD

Duane A. Portwood

Chief Financial Officer

Date: July 31, 2017

EXHIBIT 32.1

CERTIFICATION PURSUANT TO 18 U.S.C. 1350

In connection with the Quarterly Report of Akorn, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2017, as filed with the Securities and Exchange Commission and to which this Certification is an exhibit (the "Report"), the undersigned officer of the Company does hereby certify, pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) and Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934 (17 CFR 240.13a-14(b)), that to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: July 31, 2017

/s/ RAJAT RAI

Rajat Rai
Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION PURSUANT TO 18 U.S.C. 1350

In connection with the Quarterly Report of Akorn, Inc. (the "Company") on Form 10-Q for the period ended June 30, 2017, as filed with the Securities and Exchange Commission and to which this Certification is an exhibit (the "Report"), the undersigned officer of the Company does hereby certify, pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) and Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934 (17 CFR 240.13a-14(b)), that to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: July 31, 2017

/s/ DUANE A. PORTWOOD

Duane A. Portwood
Chief Financial Officer