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, 2019

☐ **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)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, No Par Value	AKRX	The NASDAQ Global Select Market

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 every Interactive Data File required to be submitted 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 such files).

Yes ☑ **No** ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a 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 ☐ **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 25, 2019, there were 126,142,943 shares of common stock, no par value, outstanding.

	Page
PART I. FINANCIAL INFORMATION	
ITEM 1. Financial Statements (unaudited).	
Condensed Consolidated Balance Sheets - June 30, 2019 and December 31, 2018	5
Condensed Consolidated Statements of Comprehensive (Loss) - Three and six months ended June 30, 2019 and 2018	6
Condensed Consolidated Statements of Shareholders' Equity - Three and six months ended June 30, 2019 and 2018	7
Condensed Consolidated Statements of Cash Flows - Six months ended June 30, 2019 and 2018	9
Notes to Condensed Consolidated Financial Statements	10
ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.	44
ITEM 3. Quantitative and Qualitative Disclosures About Market Risk.	51
ITEM 4. Controls and Procedures.	51
PART II. OTHER INFORMATION	
ITEM 1. Legal Proceedings.	52
ITEM 1A. Risk Factors.	52
ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds.	56
ITEM 3. Defaults Upon Senior Securities.	56
ITEM 4. Mine Safety Disclosures.	56
ITEM 5. Other Information.	56
ITEM 6. Exhibits.	56
SIGNATURES	
EXHIBIT INDEX	

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements.

Certain prior-period amounts have been reclassified to conform to current-period presentation, including selling, general and administrative expenses, acquisition-related costs, research and development expenses, impairment of intangible assets, litigation rulings, settlements and contingencies and other non-operating income, net on the condensed consolidated statements of comprehensive (loss) and other non-current assets, prepaid expenses and other current assets, accrued legal fees and contingencies, uncertain tax liabilities and accrued expenses and other liabilities on the condensed consolidated statements of cash flows.

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

	June 30, 2019 (Unaudited)	December 31, 2018
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 178,264	$ 224,868
Trade accounts receivable, net	172,611	153,126
Inventories, net	162,593	173,645
Prepaid expenses and other current assets	24,307	32,180
TOTAL CURRENT ASSETS	537,775	583,819
PROPERTY, PLANT AND EQUIPMENT, NET	325,098	334,853
OTHER LONG-TERM ASSETS		
Goodwill	267,923	283,879
Intangible assets, net	253,301	284,976
Right-of-use assets, net - Operating leases	22,542	—
Other non-current assets	7,520	7,730
TOTAL OTHER LONG-TERM ASSETS	551,286	576,585
TOTAL ASSETS	$ 1,414,159	$ 1,495,257
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Trade accounts payable	$ 38,420	$ 39,570
Income taxes payable	13,955	—
Accrued royalties	5,862	6,786
Accrued compensation	19,762	19,745
Accrued administrative fees	27,453	36,767
Current portion of accrued legal fees and contingencies	82,576	52,413
Current portion of lease liability - Operating leases	2,472	—
Accrued expenses and other liabilities	12,926	15,542
Current portion of long-term debt (net of deferred financing costs)	828,282	—
TOTAL CURRENT LIABILITIES	1,031,708	170,823
LONG-TERM LIABILITIES		
Long-term debt (net of non-current deferred financing costs)	—	820,411
Deferred tax liability	937	566
Uncertain tax liabilities	52,516	49,990
Long-term lease liability - Operating leases	21,877	—
Long-term portion of accrued legal fees and contingencies	38,500	—
Pension obligations and other liabilities	7,469	9,601
TOTAL LONG-TERM LIABILITIES	121,299	880,568
TOTAL LIABILITIES	1,153,007	1,051,391
SHAREHOLDERS' EQUITY		
Preferred stock, $1 par value - 5,000,000 shares authorized; no shares issued or outstanding at June 30, 2019 and December 31, 2018.	—	—
Common stock, no par value – 150,000,000 shares authorized; 126,107,933 and 125,492,373 shares issued and outstanding at June 30, 2019 and December 31, 2018, respectively.	584,592	574,553
(Accumulated deficit)	(300,948)	(107,168)
Accumulated other comprehensive (loss)	(22,492)	(23,519)
TOTAL SHAREHOLDERS' EQUITY	261,152	443,866
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ 1,414,159	$ 1,495,257

See notes to condensed consolidated financial statements.

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	**2018**	**2019**	**2018**
Revenues, net	$ 178,057	$ 190,944	$ 343,928	$ 375,007
Cost of sales (exclusive of amortization of intangibles, included within operating expenses below)	110,073	109,665	222,431	211,500
GROSS PROFIT	67,984	81,279	121,497	163,507
Selling, general and administrative expenses	61,042	83,758	133,540	146,752
Research and development expenses	9,495	11,371	18,209	24,015
Amortization of intangibles	9,950	13,182	21,015	26,372
Impairment of goodwill	—	—	15,955	—
Impairment of intangible assets	394	64,534	10,748	83,349
Litigation rulings, settlements and contingencies	74,469	(400)	74,879	(400)
TOTAL OPERATING EXPENSES	155,350	172,445	274,346	280,088
OPERATING (LOSS)	(87,366)	(91,166)	(152,849)	(116,581)
Amortization of deferred financing costs	(5,655)	(1,304)	(6,959)	(2,608)
Interest expense, net	(17,341)	(11,062)	(31,668)	(20,640)
Other non-operating income (loss), net	245	(724)	598	(454)
(LOSS) BEFORE INCOME TAXES	(110,117)	(104,256)	(190,878)	(140,283)
Income tax provision (benefit)	1,482	(16,272)	2,902	(23,552)
NET (LOSS)	$ (111,599)	$ (87,984)	$ (193,780)	$ (116,731)
NET (LOSS) PER SHARE				
NET (LOSS) PER SHARE, BASIC	$ (0.89)	$ (0.70)	$ (1.54)	$ (0.93)
NET (LOSS) PER SHARE, DILUTED	$ (0.89)	$ (0.70)	$ (1.54)	$ (0.93)
SHARES USED IN COMPUTING NET (LOSS) PER SHARE				
BASIC	126,043	125,332	125,806	125,286
DILUTED	126,043	125,332	125,806	125,286
COMPREHENSIVE (LOSS)				
Net (loss)	$ (111,599)	$ (87,984)	$ (193,780)	$ (116,731)
Unrealized holding (loss) on available-for-sale securities, net of tax of $1 and $1 for the three month periods ended June 30, 2019 and 2018, and $1 and $1 for the six month periods ended June 30, 2019 and 2018, respectively.	(3)	(4)	(3)	(5)
Foreign currency translation gain (loss)	1,380	(6,350)	956	(7,198)
Pension liability adjustment (loss) gain, net of tax of ($48) and ($1) for the three month periods ended June 30, 2019 and 2018, and ($19) and ($2) for the six month periods ended June 30, 2019 and 2018, respectively.	190	4	74	8
COMPREHENSIVE (LOSS)	$ (110,032)	$ (94,334)	$ (192,753)	$ (123,926)

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
FOR THE THREE AND SIX MONTHS ENDED JUNE 30, 2019 and 2018
(In Thousands)

	Shares	Common Stock	(Accumulated Deficit)	Other Comprehensive (Loss)	Total
BALANCES AT MARCH 31, 2019 (unaudited)	125,579	$ 579,157	$ (189,349)	$ (24,059)	$ 365,749
Consolidated net (loss)	—	—	(111,599)	—	(111,599)
Compensation and share issuances related to restricted stock awards	583	3,879	—	—	3,879
Stock-based compensation expense - stock options	—	1,440	—	—	1,440
Foreign currency translation gain	—	—	—	1,380	1,380
Stock compensation plan withholdings for employee taxes	(54)	(153)	—	—	(153)
Unrealized holding loss on available-for-sale securities	—	—	—	(3)	(3)
Akorn AG pension liability adjustment	—	—	—	190	190
Employee stock purchase plan expense	—	269	—	—	269
BALANCES AT June 30, 2019 (unaudited)	126,108	$ 584,592	$ (300,948)	$ (22,492)	$ 261,152

	Shares	Common Stock	Retained Earnings	Other Comprehensive (Loss)	Total
BALANCES AT MARCH 31, 2018 (unaudited)	125,259	$ 559,335	$ 265,994	$ (14,813)	$ 810,516
Consolidated net (loss)	—	—	(87,984)	—	(87,984)
Compensation and share issuances related to restricted stock awards	170	3,468	—	—	3,468
Stock-based compensation expense - stock options	—	2,477	—	—	2,477
Foreign currency translation gain	—	—	—	(6,350)	(6,350)
Stock compensation plan withholdings for employee taxes	(25)	(292)	—	—	(292)
Unrealized holding loss on available-for-sale securities	—	—	—	(4)	(4)
Akorn AG pension liability adjustment	—	—	—	4	4
Employee stock purchase plan expense	—	—	—	—	—
BALANCES AT June 30, 2018 (unaudited)	125,404	$ 564,988	$ 178,010	$ (21,163)	$ 721,835

	Shares	Common Stock	(Accumulated Deficit)	Other Comprehensive (Loss)	Total
BALANCES AT DECEMBER 31, 2018	125,492	$ 574,553	$ (107,168)	$ (23,519)	$ 443,866
Consolidated net (loss)	—	—	(193,780)	—	(193,780)
Compensation and share issuances related to restricted stock awards	704	6,989	—	—	6,989
Stock-based compensation expense - stock options	—	2,821	—	—	2,821
Foreign currency translation gain	—	—	—	956	956
Stock compensation plan withholdings for employee taxes	(88)	(269)	—	—	(269)
Unrealized holding loss on available-for-sale securities	—	—	—	(3)	(3)
Akorn AG pension liability adjustment	—	—	—	74	74
Employee stock purchase plan expense	—	498	—	—	498
BALANCES AT June 30, 2019 (unaudited)	126,108	$ 584,592	$ (300,948)	$ (22,492)	$ 261,152

		Common Stock	Retained Earnings	Other Comprehensive (Loss)	Total
BALANCES AT DECEMBER 31, 2017	125,091	$ 550,472	$ 294,741	$ (13,968)	$ 831,245
Consolidated net (loss)	—	—	(116,731)	—	(116,731)
Exercise of stock options	22	546	—	—	546
Compensation and share issuances related to restricted stock awards	170	5,817	—	—	5,817
Stock-based compensation expense - stock options	—	5,636	—	—	5,636
Foreign currency translation loss	—	—	—	(7,198)	(7,198)
Stock compensation plan withholdings for employee taxes	(25)	(292)	—	—	(292)
Unrealized holding loss on available-for-sale securities	—	—	—	(5)	(5)
Akorn AG pension liability adjustment	—	—	—	8	8
Employee stock purchase plan expense	146	2,809	—	—	2,809
BALANCES AT JUNE 30, 2018 (unaudited)	125,404	$ 564,988	$ 178,010	$ (21,163)	$ 721,835

See notes to condensed consolidated financial statements.

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

	Six Months Ended June 30,	
	2019	**2018**
OPERATING ACTIVITIES:		
Net (loss)	$ (193,780)	$ (116,731)
Adjustments to reconcile consolidated net (loss) to net cash (used in) operating activities:		
Depreciation and amortization	36,123	40,439
Amortization of debt financing fees	6,959	2,608
Impairment of intangible assets	10,748	83,349
Goodwill impairment	15,955	—
Fixed asset impairment and other	10,227	—
Non-cash stock compensation expense	10,308	11,453
Non-cash interest expense	913	—
Deferred income taxes, net	366	(24,512)
Other	(29)	481
Changes in operating assets and liabilities:		
Other non-current assets	440	(28)
Trade accounts receivable	(19,496)	(45,893)
Inventories, net	11,186	(7,735)
Prepaid expenses and other current assets	5,977	8,204
Trade accounts payable	2,078	602
Accrued legal fees and contingencies	68,662	15,387
Uncertain tax liabilities	2,526	844
Accrued expenses and other liabilities	1,526	259
NET CASH (USED IN) OPERATING ACTIVITIES	$ (29,311)	$ (31,273)
INVESTING ACTIVITIES:		
Proceeds from disposal of assets	—	20
Payments for intangible assets	(87)	(50)
Purchases of property, plant and equipment	(16,863)	(35,862)
NET CASH (USED IN) INVESTING ACTIVITIES	$ (16,950)	$ (35,892)
FINANCING ACTIVITIES:		
Proceeds from the exercise of stock options	—	254
Stock compensation plan withholdings for employee taxes	(269)	—
Payment of contingent acquisition liabilities	—	(4,793)
Lease payments	$ (338)	$ (6)
NET CASH (USED IN) FINANCING ACTIVITIES	$ (607)	$ (4,545)
Effect of exchange rate changes on cash and cash equivalents	141	(560)
(DECREASE) IN CASH AND CASH EQUIVALENTS	$ (46,727)	$ (72,270)
Cash and cash equivalents, and restricted cash at beginning of period	225,794	369,889
CASH, CASH EQUIVALENTS, AND RESTRICTED CASH AT END OF PERIOD	$ 179,067	$ 297,619
SUPPLEMENTAL DISCLOSURES:		
Amount paid for interest	$ 34,179	$ 25,462
Amount (received) paid for income taxes, net	$ (14,859)	$ 9,260
Additional capital expenditures included in accounts payable	$ 3,277	$ 12,010

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. In previous years, the Company completed numerous mergers, acquisitions and product acquisitions which resulted in significant growth.

Akorn, Inc. 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 have pharmaceutical manufacturing facilities in Decatur, Illinois; Somerset, New Jersey; Amityville, New York; Hettlingen, Switzerland; and Paonta Sahib, Himachal Pradesh, India. We 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 and Cranbury, New Jersey. We maintain other corporate offices in Ann Arbor, Michigan and Gurgaon, Haryana, India.

During the three and six month periods ended June 30, 2019 and 2018, the Company reported results for two reportable segments: Prescription Pharmaceuticals and Consumer Health. For further detail concerning our reportable segments please see Part I, Item 1, Note 10 - "*Segment Information.*"

Our common shares are traded on The NASDAQ Global Select Market under the ticker symbol AKRX. Our principal corporate office is located at 1925 West Field Court Suite 300, Lake Forest, Illinois 60045, with telephone number (847) 279-6100.

Terminated 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, which Merger Agreement subsequently resulted in litigation following Parent's purported termination of the Merger Agreement. For a more detailed description of the litigation, please see Part I, Item 1, Note 12 - "*Commitments and Contingencies-Litigation Related to the Terminated Merger.*"

***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 and six month periods ended June 30, 2019, 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, 2018, included in the Company's Annual Report on Form 10-K filed with the SEC on March 1, 2019.

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 have been translated from Indian Rupees to U.S. Dollars and Swiss Francs to U.S. Dollars, respectively, based on the currency translation rates in effect during the period or as of the date of consolidation, as applicable. The Company has no involvement with variable interest entities.

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 relate to the allowances for chargebacks, rebates, 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, impairments 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 legal settlement accruals.

Going Concern: In connection with the preparation of the financial statements as of and for the six month period ended June 30, 2019, 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.

As further described in Note 8 - "*Financing Arrangements*," on May 6, 2019, the Company and certain Lenders entered into a Standstill Agreement and First Amendment (the "Standstill Agreement") to its Term Loan Agreements. Pursuant to the terms of the Standstill Agreement, the Company must enter into a comprehensive amendment of the Term Loan Agreements (the "Comprehensive Amendment") that is satisfactory in form and substance to the Lenders. If the Company does not enter into a Comprehensive Amendment by December 13, 2019 or refinance or otherwise address the outstanding Term Loans, an event of default will occur under the Term Loan Agreements which, if not waived, could materially affect the Company's business, financial position and results of operations. If an event of default occurs and the Lenders accelerate the obligations under the Term Loan Agreements, the Company may not be able to repay the obligations that become immediately due and it could have a material negative impact on the Company's liquidity and business.

The Company evaluated the impact of entering into the Standstill Agreement on its ability to continue as a going concern. As the Company's ability to enter into a Comprehensive Amendment with the Lenders is not within its control, and failure to do so would result in an event of default under the Term Loan Agreements, these conditions in the aggregate raise substantial doubt about the Company's ability to continue as a going concern within one year after the date the accompanying financial statements are filed. The Company will actively seek to refinance or otherwise address the Term Loans or enter into a Comprehensive Amendment to the Term Loan Agreements by December 13, 2019. Based on discussions with the Company's financial advisor, the Company believes that it will be able to refinance or otherwise address the Term Loans within this timeframe. In the event that the Company is unable to refinance or otherwise address the Term Loans, the Company would seek to enter into a Comprehensive Amendment to the Term Loan Agreements. The Standstill Agreement requires the Company and Lenders to negotiate in good faith to enter into such a Comprehensive Amendment.

Revenue Recognition: Revenue is recognized at a point in time upon the transfer of control of the Company's products, which occurs upon delivery for substantially all of the Company's sales. The promises within the contract that are distinct are primarily the Company's supply of products, which represents a single performance obligation. The consideration the Company receives in exchange for its goods or services is only recognized when it is probable that a significant reversal will not occur. The consideration to which the Company expects to be entitled includes a stated list price, less various forms of variable consideration. The Company makes significant estimates for related variable consideration at the point of sale, including chargebacks, rebates, product returns and other discounts and allowances. All sales taxes are excluded from the transaction price. The Company expenses contract fulfillment costs when incurred since the amortization period would have been less than one year. Payment terms are primarily less than 90 days.

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 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. At June 30, 2019 and December 31, 2018, approximately $0.8 million and $0.9 million, respectively, of cash held by AIPL was restricted, and was reported within prepaid expenses and other current assets.

The following table sets forth the components of the Company's cash, cash equivalents, and restricted cash as reported in the consolidated statement of cash flows for the six month periods ended June 30, 2019 and 2018 (in thousands):

Cash, Cash Equivalents, and Restricted Cash	Six Months Ended June 30, 2019	2018
Cash and cash equivalents	$ 178,264	$ 296,782
Restricted cash	803	837
Total cash, cash equivalents, and restricted cash	$ 179,067	$ 297,619

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. Certain rebates, chargebacks and other credits are recorded as deductions to the Company's trade accounts receivable where applicable, based on product and customer specific terms.

Unless otherwise noted, the provisions and allowances for the following customer deductions are reflected in the accompanying 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 out 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 versus 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, 2019, the Company incurred a chargeback provision of $192.7 million, or 41.4% of gross sales of $466.0 million, compared to $222.5 million, or 43.8% of gross sales of $507.8 million in the prior year period. The dollar decrease and percent decrease from the comparative period was primarily the result of decreases in the wholesale acquisition cost of certain products. The Company ensures that the chargeback 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 or contract pricing structures 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 and 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 202 basis point ("BP") change in the ratio of sales subject to chargeback to indirect sales would increase the chargeback reserve by $0.3 million or decrease the chargeback reserve by $0.8 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 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 and is reserved at the point of sale. 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 protection are based upon specified terms with 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, 2019, the Company incurred rebates, administrative fees and others of $78.0 million, or 16.7% of gross sales of $466.0 million, compared to $75.1 million, or 14.8% of gross sales of $507.8 million in the prior year period. The dollar and percent increases from the comparative period were the result of shelf stock adjustments related to decreases in the wholesale acquisition cost of certain products, partially offset by gross sales decreases and product mix shifts to products with lower rebates, administrative fees and other 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 or contract pricing structures 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 and 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 202 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 less than $0.1 million or decrease the same reserve by $0.1 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 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 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, wholesaler inventory levels, and the expected impact of any product recalls 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, 2019, the Company incurred a return provision of $5.5 million, or 1.2% of gross sales of $466.0 million, compared to $6.1 million, or 1.2% of gross sales of $507.8 million in the prior year period. The dollar decrease from the comparative period was primarily due to lower gross sales. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of historical trends and evaluation of recent activity.

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 0.3 months 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 $0.4 million or decrease of $0.1 million in return reserve expense if the lag increases or decreases, respectively. The average 0.3 months change in the lag from the time of sale to the time the product return is processed was determined based on the difference between the high and low lag time for the past twelve month historical activities. This sensitivity analysis is a change from the three month period ended June 30, 2018, which was determined based on the average variances for the last six months of returns activity. The prior method did not give a measurable variance to calculate a sensitivity. 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, Advertising, Promotions and Co-Pay Discount Cards: The Company issues coupons from time to time that are redeemable against certain of our Consumer Health products. In addition to couponing, from time to time the Company authorizes various retailers to run in-store promotional sales and co-pay discount of its products. At the point of sale, the Company records an estimate of the dollar value of coupons expected to be redeemed, the dollar amount owed back to the retailer and co-pay discount as variable consideration since the Company intends to continuously issue coupons, advertising promotion and co-pay discount from time to time. This coupon estimate is based on historical experience and is adjusted as needed based on actual redemptions. Upon receiving confirmation that an advertising promotion was run, the Company adjusts the estimate of the dollar amount expected to be owed back to the retailer as needed. 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. The Company records an estimate of the dollar value of co-pay discounts expected to be utilized 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. 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.

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 calculated using the straight-line method in amounts considered sufficient to amortize the cost of the assets to operations over their estimated useful lives or lease terms.

Intangible Assets: Intangible assets consist primarily of goodwill, which is carried at its initial value, subject to impairment testing, 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 are recorded within the impairment of intangible assets line in the Condensed Consolidated Statements of Comprehensive (Loss).

Leases: The Company leases real and personal property in the normal course of business under various operating leases and other insignificant finance leases, including non-cancelable and month-to-month agreements. Our leases have initial lease terms of one to ten years, some of which include options to extend and/or terminate the lease. When deemed reasonably certain of exercise, the renewal options are included in the determination of the lease term and lease payment obligation. The Company's lease agreements do not contain any material variable lease payments, material residual value guarantees or any material restrictive covenants. Certain leases have free rent periods or escalating rent payment provisions. Leases with an initial term of twelve months or less ("Short-term leases") are not recorded on the Condensed Consolidated Balance Sheet. We recognize rent expense on a straight-line basis over the lease term. Right-of-use ("ROU") assets, net represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are recognized at commencement date of the lease based on the present value of lease payments over the lease term. The operating lease ROU assets also include any lease prepayments and is reduced by any lease incentives. When readily determinable, the Company uses the implicit rate in determining the present value of lease payments. When the lease agreement does not provide an implicit rate, the Company uses its incremental borrowing rate based on information available at the lease commencement date, including the lease term. See *Note 17 — Leasing Arrangements* for more information.

Net (Loss) Income Per Common Share: Basic net (loss) income per common share is based upon the weighted average common shares outstanding. Diluted net (loss) income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect, if any, of stock options and restricted stock using the treasury stock method. Anti-dilutive shares are excluded from the computation of diluted net (loss) 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. See *Note 14 — Income Taxes* for more information.

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 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 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, 2019**	**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	$ 178,264	$ 178,264	$ —	$ —
Nicox stock with lockup provisions	15	—	—	15
Total assets	$ 178,279	$ 178,264	$ —	$ 15

Description	**December 31, 2018**	**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	$ 224,868	$ 224,868	$ —	$ —
Nicox stock with lockup provisions	18	—	—	18
Total assets	$ 224,886	$ 224,868	$ —	$ 18

In accordance with *ASC 820 - Fair Value Measurement*, the Company records unrealized holding gains and losses on available-for-sale securities in the "Accumulated other comprehensive (loss)" caption in the Condensed Consolidated Balance Sheet. As of June 30, 2019, the Company maintained rights to receive a small number of shares of Nicox stock held in an expense escrow. The unrealized holding loss on these shares was a negligible dollar amount as of June 30, 2019. The escrow shares are not expected to be released within one year, and accordingly, the original cost basis of less than $0.1 million on these shares is included within other non-current assets on the Company's Condensed Consolidated Balance Sheet as of June 30, 2019. The fair value of the investment is estimated using observable and unobservable inputs to discount for lack of marketability.

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.

The stock-based compensation expense related to performance share units ("PSUs") is estimated at grant date based on the fair value of the award. For PSUs granted with vesting subject to market conditions, the fair value of the award is determined at grant date using the Monte Carlo model, and expense is recognized ratably over the requisite service period regardless of whether or not the market condition is satisfied. For PSUs granted with vesting subject to performance conditions, the fair value of the award is based on the market price of the underlying shares on grant date. Expense from such awards is recognized ratably over the vesting period, but is based upon an ongoing evaluation of the number of shares expected to vest and will be adjusted to reflect those awards that do ultimately vest.

The stock-based compensation expense related to restricted stock unit awards ("RSUs") is based on the fair value of the underlying shares on date of grant. Expense is recognized ratably over the vesting period, reduced by an estimate of future forfeitures.

Note 3 — Equity Compensation Plans

The Company maintains equity compensation plans that allow the Company's Board of Directors to grant stock options 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"), setting aside 8.0 million shares of the Company's common stock for issuance pursuant to equity awards. Subsequently, at the 2019 Annual Meeting of Shareholders on May 1, 2019, the Company's shareholders approved a 4.4 million increase to the shares available for awards granted under the Omnibus Plan, raising the overall total to 12.4 million shares. 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"), performance share unit awards ("PSUs") or various other instruments to directors, employees and consultants. Following shareholder approval of the Omnibus Plan, no new awards could be granted under the 2014 Plan, although previously granted awards remain outstanding pursuant to their original terms.

As of June 30, 2019, there were approximately 2.6 million stock options and 0.1 million RSU shares outstanding under the 2014 Plan.

Under the Omnibus Plan, there were approximately 4.5 million RSU shares, 1.0 million PSU shares and 2.5 million stock option award shares outstanding as of June 30, 2019. As of June 30, 2019, approximately 3.6 million shares remained available for future award grants under the Omnibus Plan.

Also granted in, and outstanding as of the six month period ended June 30, 2019, were inducement awards consisting of 0.5 million RSU shares, 0.2 million PSU shares and 0.4 million stock option award shares.

The Company accounts for stock-based compensation in accordance with *ASC Topic 718 - Compensation — Stock Compensation*. Accordingly, stock-based compensation cost for stock options and RSUs is estimated at the 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 that enter into the model is highly subjective and requires judgment. The Company uses an expected volatility that is based on the historical volatility of its 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 in effect during the quarter in which the options were granted. The dividend yield reflects 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 in subsequent periods, as necessary, if actual forfeitures differ from those estimates.

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 grant. PSU awards granted with vesting subject to market conditions are valued at date of grant through a Monte Carlo simulation model. The calculated grant-date fair value is recognized ratably over the vesting period, subject to forfeiture estimates. PSU awards granted with vesting subject to, and determined by, performance conditions are valued at grant based on the closing price of the Company's stock and anticipated vesting level at grant date. The awards are re-evaluated quarterly to determine the vesting level that is more likely than not to be achieved, and cumulative expense is adjusted accordingly.

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, 2019 and 2018 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	**2018**	**2019**	**2018**
Stock options	$ 1,440	$ 2,477	$ 2,821	$ 5,636
Employee stock purchase plan	269	—	498	—
Restricted stock units and Performance share units	3,879	3,468	6,989	5,817
Total stock-based compensation expense	$ 5,588	$ 5,945	$ 10,308	$ 11,453

Stock Option awards

From time to time, the Company has granted stock option awards to certain employees, executives and directors. No stock options were granted in 2018. Set forth in the following table are 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, 2019, along with the weighted-average grant date fair values:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Expected volatility	52%	—%	57%	—%
Expected life (in years)	6.2	—	6.2	0
Risk-free interest rate	2.31%	—%	2.37%	—%
Dividend yield	—	—	—	—
Fair value per stock option	$ 2.34	$ —	$ 2.37	$ —
Forfeiture rate	8%	—%	8%	—%

The table below sets forth a summary of stock option activity within the Company's stock-based compensation plans for the six month period ended June 30, 2019:

	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, 2018	3,418	$ 28.55	3.69	$ —
Granted	2,895	4.30		
Exercised	—	—		
Forfeited	(777)	26.03		
Outstanding at June 30, 2019	5,536	$ 16.22	6.55	$ 2,474
Exercisable at June 30, 2019	2,087	$ 29.81	2.79	$ —

(1) The Aggregate Intrinsic Value of 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.

Restricted Stock Unit awards

From time to time, the Company has granted RSUs to certain employees, executives and directors. Historically, the majority of RSU grants to employees and executives have been pursuant to the Company's long-term incentive plans (the "LTIPs"), which allow for annual grants of RSUs to all eligible employees and executives. The RSU awards vest 25% per year on each of the first four anniversaries of the grant date. During the six month period ended June 30, 2019, the Company granted 4.2 million RSUs to certain employees, executives and directors. Of this total, 2.7 million RSUs were granted to certain employees as a retention incentive under the Omnibus Plan, and vest in full two years after grant date. Another 1.0 million RSUs were granted as LTIP awards under the Omnibus Plan, and the remaining 0.5 million RSUs were granted as an inducement award to the Company's new President and Chief Executive Officer ("CEO").

Set forth below is a summary of unvested RSU activity during the six month period ended June 30, 2019:

	Number of Units (in thousands)		Weighted Average Per Share Grant Date Fair Value
Unvested at December 31, 2018	1,643	$	19.85
Granted	4,235	$	4.12
Vested	(584)	$	23.73
Forfeited	(209)	$	17.19
Unvested at June 30, 2019	5,085	$	7.49

During the three and six month periods ended June 30, 2019, approximately 0.3 million and 0.6 million RSU shares vested and were released, generating tax-deductible expenses totaling $0.9 million and $1.8 million respectively, while 0.2 million RSU shares vested during the three and six month periods ended June 30, 2018, generating tax-deductible expenses totaling $2.0 million.

Performance Share Unit awards

During the three and six month periods ended June 30, 2019, the Company granted 0.0 million and 1.2 million PSU award shares, respectively, to certain executives. Of this total, 1.0 million vest two years after grant with vesting level contingent upon meeting various performance conditions, while the remaining 0.2 million vest four years after grant with vesting level contingent on various market conditions. No PSU awards were granted by the Company prior to the quarter ended March 31, 2019.

Set forth below is a summary of unvested PSU activity during the six month period ended June 30, 2019:

	Total Number of Units (in thousands)		Weighted Average Grant Date Fair Value per Unit	Vesting Based on Performance Conditions		Weighted Average Grant Date Fair Value per Unit	Vesting Based on Market Conditions		Weighted Average Grant Date Fair Value per Unit
Unvested at December 31, 2018	—	$	—	—	$	—	—	$	—
Granted	1,239		3.99	985		4.06	254		3.73
Vested	—		—	—		—	—		—
Forfeited	—		—	—		—	—		—
Unvested at June 30, 2019	1,239	$	3.99	985	$	4.06	254	$	3.73

Set forth below is a summary of the valuation inputs for PSUs granted with vesting subject to market conditions during the six month period ended June 30, 2019:

Valuation Inputs for PSUs with Vesting Subject to Market Conditions:		
PSUs Issued (units in thousands)		254
Risk Free Rate		2.58%
Volatility		55.10%
Dividend		—%
Valuation Per Share	$	3.73
Total Fair Value (in thousands)	$	947
Expected Term (years)		4
Forfeiture Rate Assumed		8.00%

LTIP Cash awards

In May 2019, the Company awarded $9.7 million in cash-based awards to certain non-executive employees in lieu of the customary RSUs as part of its 2019 LTIP grants. The cash awards are equivalent to the value of RSUs that would have been granted under the previous program design, and will vest over two years and be paid in two equal installments after each of the first two anniversaries of the grant date. During the three month period ended June 30, 2019, the Company recorded $0.7 million expenses net of forfeitures.

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, generally running from January 1st to December 31st and from July 1st to December 31st. In a given year, employees may enroll in only one offering period, 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. The ESPP was approved by vote of the Company's shareholders on December 16, 2016. A total of 2.0 million shares of the Company's stock have been set aside for issuance under the ESPP, of which 146,247 shares have been issued to date.

During the six month period ended June 30, 2019, participants contributed approximately $1.2 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 that 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 (Loss). 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.

Trade accounts receivable, net consists of the following (in thousands):

	June 30, 2019	December 31, 2018
Gross accounts receivable	$ 334,261	$ 308,305
Less reserves for:		
Chargebacks (1)	(50,296)	(55,312)
Rebates (2)	(67,901)	(55,963)
Product returns	(33,541)	(35,146)
Discounts and allowances	(6,744)	(6,561)
Advertising and promotions	(2,643)	(1,574)
Doubtful accounts	(525)	(623)
Trade accounts receivable, net	$ 172,611	$ 153,126

(1) The decrease in the Chargebacks balance as of June 30, 2019, when compared to the December 31, 2018 balance, was primarily due to decreases in wholesale acquisition cost of certain products and changes to product and customer mix.

(2) The increase in the Rebates balances as of June 30, 2019, when compared to the December 31, 2018 balance, was primarily due to shelf stock adjustments related to decreases in the wholesale acquisition cost of certain products, payment timing and changes in product and customer mix.

For the three and six month periods ended June 30, 2019 and 2018, the Company recorded the following adjustments to gross sales (in thousands):

	Three Months Ended June 30,				Six Months Ended June 30,			
	2019		2018		2019		2018	
Gross sales	$	466,009	$	507,819	$	924,649	$	1,028,352
Less adjustments for:								
Chargebacks (1)		(192,717)		(222,482)		(398,111)		(446,445)
Rebates, administrative and other fees (2)		(77,969)		(75,094)		(142,233)		(167,374)
Product returns (3)		(5,471)		(6,133)		(17,373)		(13,254)
Discounts and allowances		(9,025)		(9,946)		(18,075)		(20,183)
Advertising, promotions and others		(2,769)		(3,220)		(4,929)		(6,089)
Revenues, net	$	178,057	$	190,944	$	343,928	$	375,007

(1) The decreases in chargebacks for the three and six month periods ended June 30, 2019, as compared to the same periods in 2018, were due to volume declines as well as decreases in wholesale acquisition cost of certain products.

(2) The increase in the rebates, administrative and other fees for the three month period ended June 30, 2019, compared to the same period in 2018, was mainly due to shelf stock adjustments related to decreases in wholesale acquisition costs of certain products. The decrease in the rebates, administrative and other fees for the six month period ended June 30, 2019, compared to the same period in 2018, was primarily due to volume declines, product and customer mix, partially offset by shelf stock adjustments.

(3) Product returns for the three month period ended June 30, 2019, compared to the three month period ended June 30, 2018, remained flat. The increase in product returns for the six month period ended June 30, 2019, as compared to the same period in 2018, was primarily due to the timing of returns processing during the three month period ended March 31, 2019.

Note 5 — Inventories, Net

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

	June 30, 2019		December 31, 2018	
Finished goods	$	67,783	$	76,981
Work in process		18,762		13,870
Raw materials and supplies		76,048		82,794
Inventories, net	$	162,593	$	173,645

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 reserves were $45.8 million and $46.5 million, at June 30, 2019 and December 31, 2018, respectively.

Note 6 — Property, Plant and Equipment, Net

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

	June 30, 2019		December 31, 2018	
Land and land improvements	$	17,680	$	17,608
Buildings and leasehold improvements		142,616		138,126
Furniture and equipment		255,032		240,080
Sub-total		415,328		395,814
Accumulated depreciation		(174,002)		(158,824)
Property, plant and equipment in service, net	$	241,326	$	236,990
Construction in progress		83,772		97,863
Property, plant and equipment, net	$	325,098	$	334,853

At June 30, 2019 and December 31, 2018, property, plant and equipment, net, with a net carrying value of $97.5 million and $91.9 million, respectively, was located outside the United States.

At June 30, 2019, the Company had $83.8 million of assets under construction which consisted primarily of manufacturing facility expansion and improvement projects. Depreciation will begin on these assets once they are placed into service. The Company assesses its long-lived assets, consisting primarily of property and equipment, for impairment when material events and changes in circumstances indicate that the carrying value may not be recoverable. During the three and six month periods ended June 30, 2019, the Company recorded impairment losses of $0.1 million and $9.0 million, respectively, as a result of the Company announcing that it was exploring strategic alternatives to exit the India manufacturing facility. The remaining net book value of the India manufacturing facility is $56.8 million. No impairment losses were recorded during the three and six month periods ended June 30, 2018.

The Company recorded depreciation expense of $7.4 million and $7.0 million during the three month periods ended June 30, 2019 and 2018, respectively, and $15.1 million and $14.1 million during the six month periods ended June 30, 2019 and 2018, respectively.

Note 7 — Goodwill and Other Intangible Assets, Net

Intangible assets consist primarily of Goodwill, which is carried at its initial value, subject to evaluation for impairment, 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, ranging from one to thirty years.

As of June 30, 2019 and 2018, accumulated amortization of intangible assets was $233.8 million and $244.9 million, respectively. The Company recorded amortization expense of $10.0 million and $13.2 million during the three month periods ended June 30, 2019 and 2018, respectively and $21.0 million and $26.4 million during the six month periods ended June 30, 2019 and 2018, respectively. The Company regularly assesses its amortizable intangible assets for impairment based on several factors, including estimated fair value and anticipated cash flows.

IPR&D intangible assets represent the value assigned to acquired R&D projects that principally represent rights to develop and sell a product that the Company has acquired which have not yet been completed or approved. These assets are subject to impairment testing until completion or abandonment of each project. Impairment testing requires significant estimates and assumptions involving the determination of estimated net cash flows for each year for each project or product (including net revenue, cost of sales, selling and marketing costs and other costs which may be allocated), the appropriate discount rate to select in order to measure the risk inherent in each future cash flow stream, the assessment of each asset’s life cycle, the potential regulatory and commercial success risks, and competitive trends impacting the asset and each cash flow stream as well as other factors. The major risks and uncertainties associated with the timely and successful completion of the IPR&D projects include legal risk, market risk and regulatory risk. If applicable, upon abandonment of the IPR&D product, the assets are impaired.

During the three month period ended June 30, 2019, no IPR&D projects were impaired, while during the three month period ended June 30, 2018, seven IPR&D projects were impaired primarily due to the anticipated market conditions and competition upon launch, resulting in impairment expenses of $61.6 million. Additionally, during the three month period ended June 30, 2019, one product licensing right was impaired due to competition resulting in impairment expenses of $0.4 million compared to impairments of $2.9 million on three product licensing rights during the comparative prior year period.

During the six month period ended June 30, 2019, no IPR&D projects were impaired, while during the six month period ended June 30, 2018, ten IPR&D projects were impaired primarily due to anticipated market conditions and competition upon launch, resulting in impairment expenses of $79.5 million. Additionally, during the six month period ended June 30, 2019, two product licensing rights were impaired due to competition resulting in impairment expenses of $10.7 million; compared to impairments of $3.9 million expenses on five product licensing rights due to competition during the comparative prior year period.

Goodwill is tested for impairment annually or more frequently if changes in circumstances or the occurrence of events suggest that impairment may exist. In its annual goodwill impairment analysis, the Company uses widely accepted valuation techniques to determine the fair value of its reporting units. 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 also models the fair value of the reporting unit based on projected earnings and cash flows of the reporting unit. The Company performed an annual impairment test on October 1, 2018 and determined that the fair value of its reporting units is in excess of its carrying value and no goodwill impairment charge was necessary. As a result of Akorn announcing that it was exploring strategic alternatives to exit the India manufacturing facility, the Company performed impairment testing and recorded goodwill impairment of $16.0 million during the three month period ended March 31, 2019. No additional goodwill impairment was recorded during the three month period ended June 30, 2019.

The following table provides a summary of the activity in goodwill by segment for the six month period ended June 30, 2019 (in thousands):

	Consumer Health	Prescription Pharmaceuticals	Total
Balances at December 31, 2018	$ 16,717	$ 267,162	$ 283,879
Currency translation adjustments	—	(1)	(1)
Acquisitions	—	—	—
Impairments	—	(15,955)	(15,955)
Dispositions	—	—	—
Balances at June 30, 2019	$ 16,717	$ 251,206	$ 267,923

The following table sets forth the major categories of the Company's intangible assets as of June 30, 2019 and December 31, 2018, and the weighted average remaining amortization period as of June 30, 2019 and December 31, 2018 (dollar amounts in thousands):

	Gross Amount (2)	Accumulated Amortization	Reclassifications	Impairment (1)	Net Balance	Wtd Avg Remaining Amortization Period (years)
June 30, 2019						
Product licensing rights	$ 472,041	$ (218,600)	$ —	$ (15,550)	$ 237,891	8.9
IPR&D	4,400	—	—	—	4,400	N/A - Indefinite lived
Trademarks	16,000	(6,767)	—	—	9,233	17.4
Customer relationships	4,225	(2,448)	—	—	1,777	7.1
Other intangibles	6,000	(6,000)	—	—	—	0.0
	502,666	$ (233,815)	$ —	$ (15,550)	$ 253,301	
December 31, 2018						
Product licensing rights	$ 597,960	$ (203,323)	$ 5,300	$ (131,306)	$ 268,631	9.2
IPR&D	149,161	—	(5,300)	(139,461)	4,400	N/A - Indefinite lived
Trademarks	16,000	(6,304)	—	—	9,696	17.5
Customer relationships	4,225	(2,318)	—	—	1,907	7.3
Other intangibles	11,235	(5,658)	—	(5,235)	342	0.3
	$ 778,581	$ (217,603)	$ —	$ (276,002)	$ 284,976	

(1) Impairment of product licensing rights is stated at gross carrying cost of $15.6 million less accumulated amortization of $4.9 million as of the impairment date. Accordingly, the total net impairment expense was $10.7 million, for the six month period ended June 30, 2019.

(2) Differences in the Gross Amounts between periods are due to the write down of fully amortized assets and additions during the period.

Note 8 — Financing Arrangements

Term Loans

During 2014, in order to finance its acquisitions of Hi-Tech Pharmacal Co Inc. and VersaPharm Inc., Akorn, Inc., together with certain of its subsidiaries (Akorn, Inc., together with such subsidiaries, the "Akorn Loan Parties"), entered into two term loan agreements (the "Term Loan Agreements" and the loans outstanding thereunder, the "Term Loans") with certain lenders (the "Lenders") and with JPMorgan Chase Bank, N.A. ("JPMorgan"), as administrative agent (the "Term Loan Administrative Agent"). The aggregate principal amount of the Term Loans was $1,045.0 million. As of June 30, 2019, outstanding debt under the Term Loan Agreements was $843.7 million. The Company believes it was in compliance with all applicable covenants in the Term Loan Agreements, which included customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities, as of June 30, 2019. As of June 30, 2019, the Term Loans were scheduled to mature on April 16, 2021.

On May 6, 2019, the Akorn Loan Parties entered into a Standstill Agreement and First Amendment (the "Standstill Agreement") with respect to the Term Loan Agreements with an ad hoc group of Lenders (the "Ad Hoc Group"), certain other Lenders (together with the Ad Hoc Group, the "Standstill Lenders") and the Term Loan Administrative Agent (together with the Akorn Loan Parties and the Standstill Lenders, the "Standstill Parties"). Capitalized terms used but not defined herein have the meanings given to them in the Standstill Agreement or the Term Loan Agreements, as applicable.

The Standstill Agreement provides that, for the duration of the Standstill Period (as defined below), among other matters, neither the Term Loan Administrative Agent nor the Lenders may (i) declare any Event of Default or (ii) otherwise seek to exercise any rights or remedies, in each case of clauses (i) and (ii) above, to the extent directly relating to any alleged Event of Default arising from any alleged breach of any of the covenants contained in Sections 5.01, 5.02, 5.03, 5.06 or 5.07 of the Term Loan Agreements (the "Specified Covenants"), to the extent the facts and circumstances giving rise to any such breach have been (x) publicly disclosed by the Company or (y) disclosed in writing by the Company to private side Lenders or certain advisors to the Ad Hoc Group (collectively, the "Specified Matters"). "Standstill Period" means the period of time from the effective date of the Standstill Agreement (the "Effective Date") through the earliest of (a) December 13, 2019; (b) the delivery of a notice of termination of the Standstill Period by Lenders holding a majority of the Term Loans (the "Required Lenders") upon the occurrence of a Default or Event of Default under the Term Loan Agreements, excluding any Default or Event of Default relating to a Specified Matter; or (c) the delivery of a notice of termination of the Standstill Period by the Required Lenders as a result of any breach of, or non-compliance with, any provision of the Standstill Agreement by the Akorn Loan Parties, including without limitation any such breach or noncompliance by the Akorn Loan Parties of or with any Affirmative Covenants and Milestones or Negative Covenants (each as defined below) or other covenants set forth in the Standstill Agreement, subject, in each case, to any applicable cure period expressly set forth therein (each, a "Standstill Event of Default").

In exchange for the agreement of the Lenders to standstill during the Standstill Period, the Standstill Agreement provides, among other matters, that:

- during the Standstill Period:
    - the Company must deliver certain financial and other reporting to the Lenders or their advisors, including monthly financial statements, 13-week cash flow forecasts and variance reports and certain regulatory information, and participate in various update calls with the Lenders and their advisors (the "Affirmative Covenants and Milestones");
    - the Company and its subsidiaries are restricted, among other matters, from (i) consummating certain asset sales and investments, (ii) making certain restricted payments with respect to the Company's common stock and any subordinated indebtedness, (iii) engaging in sale and leaseback transactions, (iv) incurring certain liens and indebtedness, (v) reinvesting any proceeds received from certain asset sales, and (vi) without the consent of the Required Lenders at such time, (A) designating any Restricted Subsidiary as an Unrestricted

Subsidiary, or otherwise creating or forming any Unrestricted Subsidiary, and/or (B) transferring any assets of the Company or any of its Restricted Subsidiaries to any Unrestricted Subsidiary, except as otherwise permitted under the Term Loan Agreements (after giving effect to the Standstill Agreement) (collectively, the “Negative Covenants”);

  - the Company must pay a fee in an amount equal to 0.625% of the outstanding principal of any Term Loans prepaid or repaid during the Standstill Period (other than as a result of any asset sale, condemnation event, incurrence of non-permitted indebtedness or excess cash flow);

  - the Company must notify the Ad Hoc Group and/or such advisors before making certain payments in respect of judgments or settlements of ongoing litigation matters (a “Specified Litigation Payment”); and

  - the Company must pay the fees and expenses of certain advisors to the Ad Hoc Group;

- the Company and the Standstill Lenders must negotiate in good faith to enter into a comprehensive amendment of the Term Loan Agreements (the “Comprehensive Amendment”), which Comprehensive Amendment must be satisfactory in form and substance to the Required Lenders;

- on the Effective Date, the Company incurred a one-time fee payable in-kind in an amount equal to $10.9 million of the aggregate principal amount of the Term Loans of the Standstill Lenders outstanding on such date; and

- the interest margins payable by the Company with respect to outstanding Term Loans (as described above) were increased on an ongoing basis by 1.50% (*i.e.*, 150 basis points), with 0.75% (*i.e.*, 75 basis points) of such increase payable in cash and 0.75% (*i.e.*, 75 basis points) of such increase payable in kind.

Subject to a five business day cure period (the “Cure Period”), the Company’s failure to comply with the Affirmative Covenants and Milestones during the Standstill Period would permit the Required Lenders to terminate the Standstill Period and exercise any rights and remedies under the Term Loan Agreements with respect to the Specified Matters or a Standstill Event of Default. The Company’s failure to comply with the Negative Covenants during the Standstill Period would permit the Required Lenders to terminate the Standstill Agreement and constitute an immediate Event of Default under the Term Loan Agreements. The Company’s failure to comply with any Affirmative Covenants and Milestones (subject to the Cure Period), Negative Covenants or other covenants in the Standstill Agreement would also result in a further increase of the interest margins payable with respect to outstanding Term Loans by 0.50% (*i.e.*, 50 basis points), which increased interest would be payable in kind.

Any Specified Litigation Payment made over the objection of the Ad Hoc Group would (i) entitle the Required Lenders to terminate the Standstill Period and (ii) constitute an Event of Default under the Term Loan Agreements if such payment has a Material Adverse Effect (as defined in the Term Loan Agreements). The failure of the Company to comply with the covenant in respect of the Specified Litigation Payment during the Standstill Period would result in an Event of Default under the Loan Agreement. The non-binding agreement in principle with respect to the Securities Class Action Litigation (as defined below in Note 12 - "*Commitments and Contingencies*") provides that the D&O Proceeds Payment (as defined below in Note 12 - "*Commitments and Contingencies*") will come from D&O insurance proceeds only; accordingly, the D&O Proceeds Payment, if made, would not constitute "Specified Litigation Payments" under the Standstill Agreement.

The failure to enter into a Comprehensive Amendment on or prior to November 15, 2019, would result in payment by the Company of a one-time in-kind fee in an amount equal to 0.625% of the Term Loans outstanding on such date and require the Akorn Loan Parties to pledge for the benefit of the Lenders all unpledged equity interests in foreign subsidiaries. The failure to enter into a Comprehensive Amendment on or prior to December 13, 2019, constitutes an immediate Event of Default under the Term Loan Agreements.

The Company will actively seek to refinance or otherwise address the Term Loans or enter into a Comprehensive Amendment to the Term Loan Agreements by December 13, 2019. Based on discussions with the Company’s financial advisors, the Company believes that it will be able to refinance or otherwise address the Term Loans within this timeframe. In the event that the Company is unable to refinance or otherwise address the Term Loans by such date, the Company would seek to enter into a Comprehensive Amendment to the Term Loan Agreements.

During the three and six month periods ended June 30, 2019, the Company amortized $5.6 million and $6.9 million, respectively of the deferred financing cost related to the Term Loans, resulting in $15.4 million remaining balance of deferred financing costs at June 30, 2019. As a result of the obligation to enter into a Comprehensive Amendment by December 13, 2019, the Company will amortize this balance using the straight-line method through December 2019.

As of June 30, 2019, the Company's spread was based upon the Ratings Level as documented below. As of June 30, 2019, the Company was a Ratings Level III for the Term Loan Agreements and related Standstill Agreement.

Ratings Level	Index Ratings (Moody’s/S&P)	Adjusted LIBOR (Eurodollar) Spread	Adjusted Base Rate (ABR) Spread
Level I	B1/B+ or higher	5.75%	4.75%
Level II	B2/B	6.25%	5.25%
Level III	B3/B- or lower	7.00%	6.00%

For the three month periods ended June 30, 2019 and 2018, the Company recorded interest expense of $18.9 million and $13.6 million, respectively in relation to the Term Loans, while for the six month periods ended June 30, 2019 and 2018, the Company recorded interest expense of $35.6 million and $25.9 million, respectively in relation to the Term Loans. The increase in interest expense is related to higher interest rates during the three and six month periods ended June 30, 2019, compared to the same periods in 2018.

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, Bank of America, N.A., as syndication agent, and the lenders party thereto (at closing, JPMorgan, Bank of America, N.A. and Wells Fargo Bank, N. A.) for a $150.0 million revolving credit facility (the “JPM Revolving Facility”).

On April 16, 2019, the Akorn Loan Parties, entered into an Amended and Restated Credit Agreement (the “A&R Credit Agreement”) governing the JPM Revolving Facility with the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent. The A&R Credit Agreement provided for a revolving line of credit of up to $150.0 million on an uncommitted basis, and amended the JPM Credit Agreement in certain other respects, including, among other things:

- extended the maturity date by 90 days to July 16, 2019; and
- decreased the undrawn fee from 0.25% to 0.05%.

The JPM Revolving Facility, as amended by the A&R Credit Agreement, was fully uncommitted and discretionary with each lender under the A&R Credit Agreement permitted to make revolving loans or issue letters of credit in its sole discretion. The Company believes it was in compliance with all covenants applicable to the A&R Credit Agreement as of June 30, 2019. The A&R Credit Agreement expired on July 16, 2019, with no amounts outstanding as of such date.

Debt Maturities Schedule

Aggregate cumulative maturities of debt obligations as of June 30, 2019 are:

(In thousands)	2021
Maturities of debt (1)	$ 843,711

(1) Pursuant to the terms of the Standstill Agreement, the Company must enter into a Comprehensive Amendment to the Term Loan Agreements that is satisfactory in form and substance to the Lenders. If the Company does not enter into a Comprehensive Amendment by December 13, 2019 or refinance or otherwise address the outstanding Term Loans, an event of default will occur under the Term Loan Agreements.

Note 9 — (Loss) Earnings Per Share

Basic net (loss) income per common share is based upon the weighted average number of common shares outstanding during the period. Diluted net (loss) 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.

The Company’s potentially dilutive shares consist of: (i) vested and unvested stock options that are in-the-money, and (ii) unvested RSUs and PSUs.

A reconciliation of the (loss) 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,	
	2019	2018	2019	2018
Net (loss)	$ (111,599)	$ (87,984)	$ (193,780)	$ (116,731)
Net (loss) per share:				
Basic	$ (0.89)	$ (0.70)	$ (1.54)	$ (0.93)
Diluted	$ (0.89)	$ (0.70)	$ (1.54)	$ (0.93)
Shares used in computing net (loss) per share:				
Weighted average basic shares outstanding	126,043	125,332	125,806	125,286
Dilutive securities:				
Stock option	—	—	—	—
Unvested RSUs and PSUs	—	—	—	—
Total dilutive securities	—	—	—	—
Weighted average diluted shares outstanding	126,043	125,332	125,806	125,286
Shares subject to stock options omitted from the calculation of (loss) per share as their effect would have been anti-dilutive	4,880	3,842	4,401	3,844
Shares subject to unvested RSUs and PSUs omitted from the calculation of (loss) per share as their effect would have been anti-dilutive	2,062	1,718	1,920	821

Note 10 — Segment Information

During the three and six month periods ended June 30, 2019 and 2018, 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 over-the-counter ("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,	
	2019	2018	2019	2018
Revenues, net:				
Prescription Pharmaceuticals	$ 158,379	$ 172,163	$ 306,394	$ 336,464
Consumer Health	19,678	18,781	37,534	38,543
Total revenues, net	178,057	190,944	343,928	375,007
Gross Profit:				
Prescription Pharmaceuticals	59,785	73,286	105,228	146,794
Consumer Health	8,199	7,993	16,269	16,713
Total gross profit	67,984	81,279	121,497	163,507
Operating expenses	155,350	172,445	274,346	280,088
Operating (loss)	(87,366)	(91,166)	(152,849)	(116,581)
Other expenses, net	(22,751)	(13,090)	(38,029)	(23,702)
(Loss) before income taxes	$ (110,117)	$ (104,256)	$ (190,878)	$ (140,283)

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.

The following table sets forth the Company's net revenues by geographic region for the three and six month periods ended June 30, 2019 and 2018. The Domestic region represents sales within the United States of America and its territories while the Foreign region represents sales within all other countries and territories (dollar amounts in thousands):

	Three Months Ended June 30, 2019		Three Months Ended June 30, 2018		Six Months Ended June 30, 2019		Six Months Ended June 30, 2018	
Region	**Amount**	**% of Total Revenues**	**Amount**	**% of Total Revenues**	**Amount**	**% of Total Revenues**	**Amount**	**% of Total Revenues**
Domestic	$ 174,109	97.8%	$ 186,726	97.8%	$ 338,243	98.3%	$ 367,740	98.1%
Foreign	3,948	2.2%	4,218	2.2%	5,685	1.7%	7,267	1.9%
Total Revenues	$ 178,057	100.0%	$ 190,944	100.0%	$ 343,928	100.0%	$ 375,007	100.0%

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 from time to time 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, 2019. In aggregate, over the life of the Stock Repurchase Program, the Company repurchased 1.8 million shares at an average purchase price of $24.89. As of June 30, 2019, the Company 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 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.

Note 12 — Commitments and Contingencies

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 timeline, successful product testing and validation, successful clinical studies, various U.S. Food and Drug Administration ("FDA") and other regulatory approvals and other factors as negotiated in each agreement. 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 that obligate the Company to purchase various active pharmaceutical ingredients 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 that would become due to strategic partners in the years 2019 and beyond, assuming all such contingencies occur (in thousands):

Year ending December 31,	Milestone Payments	
2019	$	471
2020		1,408
2021		2,150
2022		550
Total	$	4,579

Legal Proceedings

Litigation Related to the Terminated Merger

Akorn, Inc. v. Fresenius Kabi AG

On April 22, 2018, Fresenius Kabi AG delivered to Akorn a letter purporting to terminate the Merger Agreement. On April 23, 2018, Akorn filed a verified complaint entitled *Akorn, Inc. v. Fresenius Kabi AG, Quercus Acquisition, Inc. and Fresenius*

SE & Co. KGaA, in the Court of Chancery of the State of Delaware for breach of contract and declaratory judgment. The complaint alleged, among other things, that (i) the defendants anticipatorily breached their obligations under the Merger Agreement by repudiating their obligation to close the Merger, (ii) the defendants knowingly and intentionally breached their obligations under the Merger Agreement by working to slow the antitrust approval process and by engaging in a series of actions designed to hamper and ultimately block the Merger and (iii) Akorn had performed its obligations under the Merger Agreement, and was ready, willing and able to close the Merger. The complaint sought, among other things, a declaration that Fresenius Kabi AG's termination was invalid, an order enjoining the defendants from terminating the Merger Agreement, and an order compelling the defendants to specifically perform their obligations under the Merger Agreement to use reasonable best efforts to consummate and make effective the Merger. On April 30, 2018, the defendants filed a verified counterclaim alleging that, due primarily to purported data integrity deficiencies, the Company had breached representations, warranties and covenants in the Merger Agreement, and that it had experienced a material adverse effect. The verified counterclaim sought, among other things, a declaration that defendants' purported termination of the Merger Agreement was valid and that defendants were not obligated to consummate the transaction, and damages.

Following expedited discovery, from July 9 to 13, 2018, the Court of Chancery held a trial on the parties' claims (the "Delaware Action"). At the conclusion of trial, the Court of Chancery ordered post-trial briefing, which was completed on August 20, 2018, and a post-trial hearing, which was held on August 23, 2018.

On October 1, 2018, the Court of Chancery issued an opinion (the "Opinion") denying Akorn's claims for relief and concluding that Fresenius Kabi AG had validly terminated the Merger Agreement. The Court of Chancery concluded that Akorn had experienced a material adverse effect due to its financial performance following the signing of the Merger Agreement; that Akorn had breached representations and warranties in the Merger Agreement and that those breaches would reasonably be expected to give rise to a material adverse effect; that Akorn had materially breached covenants in the Merger Agreement; and that Fresenius was materially in compliance with its own contractual obligations. On October 17, 2018, the Court of Chancery entered partial final judgment against Akorn on its claims and in favor of the Fresenius parties on their claims for declaratory judgment. The Court of Chancery entered an order holding proceedings on the Fresenius parties' damages claims in abeyance pending the resolution of any appeal from the partial final judgment.

On October 18, 2018, Akorn filed a notice of appeal from the Opinion and the partial final judgment, as well as a motion seeking expedited treatment of its appeal. On October 23, 2018, the Delaware Supreme Court granted Akorn's motion for expedited treatment and set a hearing on Akorn's appeal for December 5, 2018. On December 7, 2018, the Delaware Supreme Court affirmed the Court of Chancery's opinion denying Akorn's claims for declaratory and injunctive relief and granting Defendants' counterclaim for a declaration that the termination was valid. On December 27, 2018, the Delaware Supreme Court issued a mandate returning the case to the Court of Chancery for consideration of all remaining issues, including the Fresenius parties' damages claims.

On January 15, 2019, the parties filed a joint letter to the Court of Chancery seeking thirty days to discuss the potential resolution of the Fresenius parties' damages claims. On February 19, 2019, the parties filed a joint letter advising the Court that they have been unable to resolve the Fresenius parties' damages claims. The Fresenius parties stated their intention to seek leave to amend their counterclaims to assert a new claim for fraud and that they would seek an expedited trial on such claim purportedly due to Akorn's financial condition. Akorn stated that it expected to oppose the motions for amendment and expedition, and that it would move to dismiss the Fresenius parties' damages claims in their entirety.

On February 20, 2019, the Fresenius parties filed a motion for leave to amend and supplement their counterclaim. The Fresenius parties' proposed amended and supplemented counterclaim alleged that Akorn fraudulently induced Fresenius to enter into the Merger Agreement and thereafter breached contractual representations and warranties and covenants therein. It sought damages of approximately $102 million. On February 25, 2019, Akorn filed an opposition to the Fresenius parties' motion for leave to amend and supplement their counterclaim, arguing that the motion was untimely and prejudicial. On February 27, 2019, the Fresenius parties filed a reply in further support of their motion to file an amended and supplemented counterclaim. On February 28, 2019, the Court of Chancery denied the Fresenius parties' motion for leave to file an amended and supplemented counterclaim.

On March 15, 2019, the Fresenius parties served interrogatories in furtherance of their claim for damages purportedly resulting from breaches of contractual representations and warranties and covenants in the Merger Agreement. On April 15, 2019, Akorn served responses and objections to those interrogatories, and served its own interrogatories and requests for the production of documents in furtherance of their defense to the Fresenius parties' remaining claim for damages. On April 29, 2019, the Fresenius parties served additional requests for the production of documents. On May 15, 2019, the Fresenius parties served responses and objections to both Akorn's interrogatories and requests for the production of documents. On June 28, 2019, Akorn served amended responses and objections to the Fresenius parties' interrogatories.

Other Matters

In re Akorn, Inc. Data Integrity Securities Litigation

On March 8, 2018, a purported shareholder of the Company filed a putative class action complaint entitled *Joshi Living Trust v. Akorn, Inc. et al*., in the United States District Court for the Northern District of Illinois alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. The complaint named as defendants the Company, Chief Executive Officer Rajat Rai, Chief Financial Officer Duane Portwood and Chief Accounting Officer Randall Pollard. The complaint alleged that defendants made materially false or misleading statements and/or material omissions by failing to disclose sooner the existence of investigations into data integrity at the Company. The complaint sought, among other things, an award of damages, attorneys' fees and expenses. The Company disputes these claims.

On May 31, 2018, the Court issued an order appointing Gabelli & Co. Investment Advisors, Inc. and Gabelli Funds, LLC as lead plaintiffs pursuant to the Private Securities Litigation Reform Act ("PSLRA"), approving their selection of lead counsel and liaison counsel and amending the case caption to *In re Akorn, Inc. Data Integrity Securities Litigation* (the "Securities Class Action Litigation"). On June 26, 2018, the Court denied a motion to lift the PSLRA stay, subject to entry of a preservation order.

On September 5, 2018, lead plaintiffs filed an amended complaint against the Company, Rajat Rai, Duane A. Portwood, Mark M. Silverberg, Alan Weinstein, Ronald M. Johnson, Brian Tambi, John Kapoor, Kenneth S. Abramowitz, Adrienne L. Graves, Steven J. Meyer and Terry A. Rappuhn. The amended complaint asserted (i) claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Fraud Claims") against Defendants Akorn, Rai, Portwood, Silverberg, Weinstein, Johnson and Tambi; and (ii) claims under Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 (the "Proxy Claims") against defendants Akorn, Rai, Kapoor, Weinstein, Abramowitz, Graves, Johnson, Meyer, Rappuhn and Tambi. The amended complaint alleged that, during a class period from November 3, 2016, to April 20, 2018, defendants knew or recklessly disregarded widespread institutional data integrity problems at Akorn's manufacturing and research and development facilities, while making or causing Akorn to make contrary misleading statements and omissions of material fact concerning the Company's data integrity at its facilities. The amended complaint alleged that corrective information was provided to the market on two separate dates, causing non-insider shareholders to lose over $1.07 billion and $613 million in value respectively. The amended complaint sought an award of equitable relief and damages.

On October 29, 2018, the parties filed a stipulation and joint motion providing for the dismissal of certain claims and defendants. On October 30, 2018, the Court granted the parties' joint motion, dismissing the Proxy Claims without prejudice; dismissing defendants Kapoor, Abramowitz, Graves, Meyer and Rappuhn without prejudice; and dismissing Defendant Silverberg with prejudice.

On February 21, 2019, Plaintiff Johnny Wickstrom, a purported shareholder of the Company, filed a putative class action complaint in the United States District Court for the Northern District of Illinois alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the "Wickstrom Action"). The complaint named as defendants the Company, Rai and Portwood. The complaint alleged that defendants made materially false or misleading statements and/or material omissions concerning its compliance with U.S. Food and Drug Administration ("FDA") regulations and that those misstatements were corrected when the Company disclosed its receipt from the FDA of a warning letter at the Company's facility in Decatur, IL. The complaint sought, among other things, an award of damages, attorneys' fees and expenses.

On March 8, 2019, the parties in the Securities Class Action Litigation filed a proposed stipulation which sought, among other things: (i) leave to file a second amended class action complaint, which would extend the end date of the alleged class period from November 3, 2016, through September 28, 2018; (ii) to consolidate the Wickstrom complaint into the Securities Class Action Litigation for all purposes; and (iii) to extend the existing discovery schedule in order to permit time to mediate lead plaintiffs' claims and to conduct additional discovery related to the expanded class period.

During a March 27, 2019 conference, the Court found that the Wickstrom Action was related to the Securities Class Action Litigation and ordered oral argument for April 22, 2019, on lead plaintiffs' requests to file a second amended complaint and to consolidate the Wickstrom complaint.

Following the March 27, 2019 hearing, the Court entered an order finding the Securities Class Action Litigation and Wickstrom Action to be related and requesting the reassignment of the Wickstrom Action. The Court also extended the discovery and pretrial deadlines

On April 22, 2019, Plaintiff Vicente Juan, a purported shareholder of the Company, filed a putative class action complaint in the United States District Court for the Northern District of Illinois alleging violations of Sections 10(b) and 20(a) of the

Securities Exchange Act of 1934 (the “Juan Action”). The complaint named as defendants the Company, Rai and Portwood. The complaint alleged that defendants made or caused the Company to make materially false or misleading statements and/or material omissions concerning the Company’s compliance with FDA regulations and that those misstatements were corrected when the Company disclosed its receipt from the FDA of a warning letter at the Company’s facility in Decatur, IL. The complaint sought, among other things, an award of damages, attorneys’ fees and expenses.

Also on April 22, 2019, lead plaintiffs, by and through their attorneys, filed a second amended complaint against the Company, Rai, Portwood, Weinstein, Johnson and Tambi. The second amended complaint asserts claims under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. The second amended complaint alleges that, during a class period from November 3, 2016, to January 8, 2019, defendants knew or recklessly disregarded widespread institutional data integrity problems at Akorn’s manufacturing and research and development facilities, while making or causing Akorn to make contrary misleading statements and/or omissions of material fact concerning the Company’s data integrity at its facilities. The second amended complaint alleges that corrective information was provided to the market on three separate dates. The second amended complaint seeks an award of equitable relief and damages. On April 23, 2019, the Court entered an order finding the Securities Class Action Litigation and Juan Action to be related and requesting reassignment of the Juan Action.

On May 3, 2019, the Company and lead plaintiffs commenced mediation. On May 9, 2019, the Court entered an order consolidating both the Wickstrom Action and the Juan Action with and into the Securities Class Action Litigation. The Court also extended the discovery and pretrial deadlines.

On May 31, 2019, Plaintiffs Twin Master Fund, Ltd., Twin Opportunities Fund, LP and Twin Securities, Inc., purported shareholders of the Company, filed a complaint in the United States District Court for the Northern District of Illinois alleging violations of Sections 10(b), 18 and 20(a) of the Securities Exchange Act of 1934, and common law fraud (the “Twin Master Fund Action”). The complaint names as defendants the Company, Rai, Portwood, Weinstein, Johnson and Tambi. The complaint alleges that defendants made or caused Akorn to make materially false or misleading statements and/or material omissions concerning the Company’s compliance with FDA regulations, among other things. The complaint seeks, among other things, an award of damages, punitive damages and expenses. Following a June 5, 2019 conference, the Court extended the discovery and pretrial deadlines.

On June 11, 2019, the Court entered an order finding the Securities Class Action Litigation and Twin Master Fund Action to be related and requesting reassignment of the Twin Master Fund Action.

On July 5, 2019, lead plaintiffs filed a motion seeking certification of a proposed class of all persons or entities that purchased or otherwise acquired Akorn’s common stock between November 3, 2016 and January 8, 2019, inclusive, and were damaged thereby.

On July 10, 2019, Plaintiffs Manikay Master Fund, LP and Manikay Merger Fund, LP, purported shareholders of the Company, filed a complaint in the United States District Court for the Northern District of Illinois alleging violations of Sections 10(b), 18 and 20(a) of the Securities Exchange Act of 1934, and common law fraud (the “Manikay Master Fund Action”). The complaint names as defendants the Company, Rai, Portwood, Weinstein, Johnson and Tambi. The complaint alleges that defendants made or caused Akorn to make materially false or misleading statements and/or material omissions concerning the Company’s compliance with FDA regulations, among other things. The complaint seeks, among other things, an award of damages, punitive damages and expenses.

On July 25, 2019, after extensive arm's-length negotiations, the parties in the Securities Class Action Litigation reached a non-binding agreement in principle, memorialized in a signed term sheet, with respect to the principal terms of a settlement that, if consummated, would provide for, among other things, the dismissal of that action and the release of all claims asserted by or on behalf of the putative class in that action.

Under the terms of the non-binding agreement in principle, the putative class would release its claims in exchange for a combination of (i) up to $30 million in insurance proceeds from the Company's D&O insurance policies (the "D&O Proceeds Payment"), (ii) the issuance by the Company of approximately 6.5 million shares of the Company's common stock and any additional shares of Company common stock that are released as a result of the expiration of out of the money options through December 31, 2024 and (iii) the issuance by the Company of contingent value rights ("CVR") with a five year term, subject to an extension of up to two years under certain circumstances. Under the terms of the non-binding agreement in principle, holders of the CVR would be entitled to receive an annual cash payment from the Company of 33.3% of "Excess EBITDA" (i.e., earnings before interest, taxes, depreciation and amortization (EBITDA) above the amount of EBITDA required to meet a 3.0x net leverage ratio, assuming a $100.0 million minimum cash cushion, before any such CVR payment is triggered). To the extent any such annual payments are triggered under the CVR, they are capped at an aggregate of $12.0 million per year and $60.0 million in the aggregate during the term of the CVR.

Upon certain change of control transactions during the term of the CVR, if the Company's first lien term loan lenders and holders of the Company's other debt are repaid in full, the CVR would entitle the holders thereof to a cash payment in the aggregate amount of $30.0 million (the "Change of Control Payment"). If the Company is the subject of a voluntary or involuntary bankruptcy filing during the term of the CVR, the CVR agreement would provide that holders of the CVR would receive in the aggregate a $30.0 million unsecured claim (which unsecured claim will be subordinated to any deficiency claim of the Company's first lien term loan lenders and holders of the Company's other secured debt in any such bankruptcy case) (the "Bankruptcy Claim"). The $60.0 million cap on annual payments would not apply to the Change of Control Payment or the Bankruptcy Claim, if any. No further amounts would be payable under the CVR following such a change of control transaction or bankruptcy event.

The non-binding agreement in principle is subject to numerous terms and conditions including, among other things, (i) the negotiation and execution of a definitive settlement agreement among the parties, (ii) the unilateral right of the Company and the other defendants in the action to terminate the definitive settlement agreement if persons who purchased a number of shares exceeding a to be agreed threshold opt out of and elect not to participate in or be bound by the proposed settlement and (iii) final approval of the definitive settlement agreement by the Court. There can be no guarantee that the parties will enter into a definitive settlement agreement (or the final terms thereof), that the Company and the other defendants will not exercise their termination right or that the definitive settlement agreement will receive Court approval.

The Company and the other defendants in the Securities Class Action Litigation have denied and continue to deny each and all of the claims alleged in the action, and the entry into the non-binding agreement in principle is not an admission of wrongdoing or acceptance of fault by the Company or any of the other defendants.

At a July 30, 2019 conference, the parties to the Securities Class Action Litigation disclosed to the Court that they had reached a non-binding agreement in principle to settle the action. At the July 30, 2019 conference, the Court ordered that the parties file a motion for preliminary approval no later than August 9, 2019, and set a hearing on the motion for August 26, 2019. Any objections to the motion for preliminary approval will be due no later than August 19, 2019. The Court further entered a finding of relatedness with respect to the *Manikay Master Fund* Action, and requested reassignment of that action.

Kogut v. Akorn, Inc. et. al.

On March 8, 2016, a purported shareholder of the Company filed a putative derivative suit entitled *Kogut v. Akorn, Inc., et al*., in Louisiana state court in the Parish of East Baton Rouge. On June 10, 2016, the plaintiff filed an amended complaint asserting shareholder derivative claims alleging breaches of fiduciary duty in connection with the Company’s accounting for its acquisition and the restatement of its financials. On September 23, 2016, the Company filed a motion to dismiss the case. The case was subsequently stayed. On September 21, 2018, the plaintiff filed a second amended complaint, which added claims for shareholder derivative claims alleging breaches by certain present and former officers and directors of Akorn of fiduciary duties related to, among other matters, Akorn’s compliance with FDA regulations and requirements regarding data integrity. On December 3, 2018, the Company and certain individual defendants moved to dismiss the complaint. Briefing on the motion to dismiss was completed on January 31, 2019.

On February 4, 2019, the court held a hearing, at which it instructed the parties to confer concerning the possible retention of a special master to resolve the pending motions to dismiss and to oversee any proceedings thereafter. After conferring, the parties jointly proposed a candidate for special master. On March 6, 2019, the Court entered an order appointing the parties’ proposed candidate as special master. The order directed the special master to provide the Court with a written report and recommendation on the pending motion to dismiss within 60 days of his appointment or 30 days of any oral argument.

On May 13, 2019, the special master issued a report and recommendation on defendants’ motion to dismiss. The report and recommendation recommends dismissing from the case the Company and all named defendants other than Mark Silverberg.

On July 11, 2019, the plaintiff filed a third amended complaint naming as defendants former Akorn officers Rajat Rai, Bruce Kutinsky, Steven Lichter and Mark Silverberg, as well as nominal defendant Akorn. The third amended complaint purports to allege derivatively on behalf of the Company that Akorn's former officers: (i) breached their fiduciary duties to the Company by intentionally causing Akorn to not comply with FDA regulations; and (ii) were unjustly enriched thereby. The third amended complaint seeks an award of damages and injunctive relief.

In re Akorn, Inc. Shareholder Derivative Litigation

On October 15, 2018, Dale Trsar, a purported shareholder of the Company, filed a putative derivative suit captioned *Trsar v. Kapoor, et al.*, in the Circuit Court of Cook County, IL. The suit alleged breaches by certain present and former officers and directors of Akorn of fiduciary duties related to, among other matters, Akorn's compliance with FDA regulations and requirements regarding data integrity. On October 26, 2018, Trsar moved to dismiss the complaint voluntarily. On November 5, 2018, the Court granted Plaintiff Trsar's motion and dismissed the complaint without prejudice.

On November 6, 2018, Trsar filed a putative derivative complaint captioned *Trsar v. Kapoor, et al.* against defendants John N. Kapoor, Rajat Rai, Duane A. Portwood, Mark M. Silverberg, Alan Weinstein, Kenneth S. Abramowitz, Steven J. Meyer, Terry Allison Rappuhn, Adrienne L. Graves, Ronald M. Johnson and Brian Tambi in the United States District Court for the Northern District of Illinois (the "*Trsar* Action"). The complaint purports to allege derivatively on behalf of the Company that (i) the defendants breached their fiduciary duties to the Company and its shareholders by failing to address the Company's alleged non-compliance with FDA regulations; and (ii) the defendants violated Section 14(a) of the Securities Exchange Act of 1934, and SEC Rule 14a-9 promulgated thereunder, by making false or misleading statements in proxy statements issued to Akorn shareholders on November 14, 2016 and March 20, 2017. The complaint seeks an award of equitable relief and damages.

On December 10, 2018, Felix Glaubach, a purported shareholder of the Company, filed a putative derivative complaint captioned *Glaubach v. Kapoor, et al.* against John N. Kapoor, Rajat Rai, Mark M. Silverberg, Duane A. Portwood, Alan Weinstein, Kenneth S. Abramowitz, Steven J. Meyer, Terry Allison Rappuhn, Adrienne L. Graves, Ronald M. Johnson, and Brian Tambi in the United States District Court for the Northern District of Illinois (the "*Glaubach* Action"). The complaint purported to allege derivatively on behalf of the Company that (i) the defendants breached their fiduciary duties to the Company and its shareholders by failing to address the Company's alleged non-compliance with FDA regulations; (ii) John N. Kapoor and Brian Tambi breached their fiduciary duties to the Company and its shareholders by misappropriating inside information in connection with sales of the Company's stock; (iii) Rajat Rai and Duane A. Portwood were unjustly enriched; (iv) the Defendants wasted the Company's assets; and (v) the Defendants violated Section 14(a) of the Securities Exchange Act of 1934, and SEC Rule 14a-9 promulgated thereunder, by making false or misleading statements in proxy statements issued to the Company's shareholders. The complaint sought an award of equitable relief and damages. On January 11, the *Glaubach* Action was consolidated with the *Trsar* Action, with the complaint filed in the *Trsar* Action designated as operative, and the case caption was amended to *In re Akorn, Inc. Shareholder Derivative Litigation*.

On January 14, 2019, defendants filed a motion to dismiss the operative complaint in the consolidated action. Plaintiffs filed an opposition to defendants' motion to dismiss on February 14, 2019. Defendants filed a reply memorandum of law in further support of their motion to dismiss on February 28, 2019.

On March 29, 2019, defendants filed a motion to amend their motion to dismiss to reflect the appointment of a special master by the court in *Kogut v. Akorn, Inc., et al*.

On April 1, 2019, the Court entered an order granting defendants' motion to amend their motion to dismiss.

On May 24, 2019, defendants filed a motion to defer the Court's ruling on defendants' motion to dismiss in light of the special master's recommendation and report in *Kogut v. Akorn, Inc., et al*.

On June 10, 2019, the Court entered an order denying defendants' motion to defer the Court's ruling on defendants' motion to dismiss.

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. Other than amounts previously disclosed that have been recorded for intermediate court decisions and damages claims, the Company has determined that contingent liabilities associated with the legal matters disclosed above (other than the Securities Class Action Litigation, described further below) are reasonably possible but they cannot be reasonably estimated.

The Company recorded a $74.0 million charge and corresponding liability as of June 30, 2019 associated with the non-binding agreement in principle with respect to the settlement of the Securities Class Action Litigation. As described further above under "In re Akorn, Inc. Data Integrity Securities Litigation", the charge and corresponding liability is expected to be settled through issuances of Company common stock and the CVR. Accordingly, Long-term portion of accrued legal fees and contingencies includes a $30.0 million liability with respect to an estimate of the contingent cash payments under the CVR and an $8.5 million liability with respect to the Company common stock that would be issued to the plaintiffs in the future in connection with the proposed settlement. The remaining $35.5 million of the liability recorded also relates to the issuance of Company common stock to the plaintiffs under the proposed settlement, but is considered short term and included in Current portion of accrued legal fees and contingencies because it is expected to be issued within the next year. The settlement contemplated by the non-binding agreement in principle could result in a loss of up to approximately $30.0 million in excess of the charge and corresponding liability the Company has recorded as a result of the $60.0 million aggregate payment cap under the terms of the CVR.

In addition to the Company common stock and the CVR, up to $30.0 million in insurance proceeds from the Company's D&O insurance policies would be remitted by the Company's D&O insurers to the plaintiffs in the Securities Class Action Litigation in connection with the settlement contemplated by the non-binding agreement in principle. Such settlement would only require the Company to use its best efforts to cause the D&O insurers to make such payments, and would not impose any obligation upon the Company to make any such payment out of its own funds. Accordingly, this amount from insurance is not included within the $74.0 million charge and corresponding liability.

The equity component of the settlement estimate is sensitive to changes in the Company's common stock price. Holding all other assumptions constant, a 10% change in the Company's common stock price would have approximately a $4.5 million effect on the reserve estimate. As the settlement is non-binding and subject to change, the recorded estimate and range is also subject to change.

Given the nature of the other 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

In the three and six month periods ended June 30, 2019 and 2018, a significant portion of the Company's gross and net revenues reported were to three large wholesale drug distributors, and a significant portion of the Company's accounts receivable as of June 30, 2019 and December 31, 2018 were due from these wholesale drug distributors as well. AmerisourceBergen Health Corporation ("Amerisource"), Cardinal Health, Inc. ("Cardinal") and McKesson Drug Company ("McKesson") collectively referred to herein as the "Big 3 Wholesalers", are all distributors of the Company's products, as well as suppliers of a broad range of health care products. Aside from these three wholesale drug distributors, no other individual customer accounted for 10% or more of gross sales, net revenue or gross trade receivables for the indicated dates and periods.

If sales to the Big 3 Wholesalers were to diminish or cease, the Company believes that the end users of its products would find little difficulty obtaining the Company's products from another distributor. Further, the Company is subject to credit risk from its accounts receivable, more heavily weighted to the Big 3 Wholesalers, but as of and for the three and six month periods ended June 30, 2019 and December 31, 2018, the Company has not experienced significant losses with respect to its collection of these gross accounts receivable balances.

The following table sets forth the percentage of the Company's gross accounts receivable attributable to the Big 3 Wholesalers as of June 30, 2019 and December 31, 2018:

Big 3 Wholesalers combined:	June 30, 2019	December 31, 2018
Percentage of gross trade accounts receivable	84%	86%

The following table sets forth the percentage of the Company's gross sales attributable to the Big 3 Wholesalers for the three and six month periods ended June 30, 2019 and 2018:

	Three Months Ended June 30,		Six Months Ended June 30,	
Big 3 Wholesalers combined:	2019	2018	2019	2018
Percentage of gross sales	84%	83%	84%	83%

The following table sets forth the Company's net revenues disaggregated by major customers for the three and six month periods ended June 30, 2019 and 2018 (dollar amounts in thousands):

Disaggregation of net revenues by major customers	Three Months Ended June 30, 2019		Three Months Ended June 30, 2018		Six Months Ended June 30, 2019		Six Months Ended June 30, 2018	
	Net Revenue	Net Revenue %	Net Revenue	Net Revenue %	Amount	% of Total Revenues	Amount	% of Total Revenues
Amerisource	$ 40,275	22.6%	$ 39,256	20.6%	$ 70,371	20.5%	$ 77,211	20.6%
Cardinal	28,337	15.9%	29,861	15.6%	58,098	16.9%	57,051	15.2%
McKesson	40,743	22.9%	43,128	22.6%	78,495	22.8%	96,349	25.7%
Big 3 Wholesalers combined	109,355	61.4%	112,245	58.8%	206,964	60.2%	230,611	61.5%
All Others	68,702	38.6%	78,699	41.2%	136,964	39.8%	144,396	38.5%
Total Revenues	178,057	100.0%	190,944	100.0%	343,928	100.0%	375,007	100.0%

Sales to the Big 3 Wholesalers primarily represent purchases of products in the Prescription Pharmaceuticals segment and generate the majority of the Prescription Pharmaceuticals segment revenue. The Prescription Pharmaceuticals segment revenue represented 88.9% and 90.2% of the consolidated net revenue for three month periods ended June 30, 2019 and 2018, respectively, while during the six month periods ended June 30, 2019 and 2018 the Prescription Pharmaceuticals segment revenue represented 89.1% and 89.7% of the consolidated net revenue, respectively. Chain pharmacies are the major customers in the Consumer Health segment. For more information, see *Note 10 — Segment Information*.

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 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 the three and six month periods ended June 30, 2019 or 2018.

Product Concentration

In the three and six month periods ended June 30, 2019 and 2018, none of the Company's products represented 10% or more of its total net revenue. The Company attempts to minimize the risk associated with product concentration by continuing to acquire and develop new products to add to its existing product portfolio.

Note 14 — Income Taxes

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
(Loss) before income taxes	$ (110,117)	$ (104,256)	$ (190,878)	$ (140,283)
Income tax provision (benefit)	1,482	(16,272)	2,902	(23,552)
Net (loss)	$ (111,599)	$ (87,984)	$ (193,780)	$ (116,731)
Income tax provision (benefit) as a percentage of (loss) before income taxes	(1.3)%	15.6%	(1.5)%	16.8%

During the three month periods ended June 30, 2019 and 2018, the Company recorded an income tax provision of $1.5 million and an income tax benefit of $16.3 million, or (1.3)% and 15.6%, of (loss) before income tax in the applicable periods, respectively while during the six month periods ended June 30, 2019 and 2018, the Company recorded an income tax provision of $2.9 million and an income tax benefit of $23.6 million, or (1.5)% and 16.8% of loss before income tax in the applicable periods, respectively. The Company did not use the discrete method to calculate the quarterly provision due to the company's overall valuation allowance position. The reason for the overall tax provision rate of (1.3)% and (1.5)% respectively during the three and six month periods ended June 30, 2019, is the full valuation allowance recorded against our deferred tax assets.

The Company records a valuation allowance to reduce net deferred income tax assets to the amount that is more likely than not to be realized. In performing its analysis of whether a valuation allowance to reduce the deferred income tax asset was necessary, the Company evaluated the data and believes that it is not more likely than not that the deferred tax assets in the U.S., India, and Switzerland will be realized. Accordingly, the Company has recorded a full valuation allowance against U.S., India, and Switzerland deferred tax assets. The determination of this valuation allowance did not take into account our deferred tax liability for IPR&D and tax-deductible goodwill related to its subsidiary, Advanced Vision Research, Inc., both assigned an indefinite life for book purposes, also known as a "naked credit" in the amount of $0.3 million at June 30, 2019. The Company has a valuation allowance of $107.0 million against its deferred tax assets as of June 30, 2019.

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 $29.2 million related to uncertain tax positions as of June 30, 2019. If recognized, $2.1 million of the above positions would impact the Company's effective rate, while the remaining $27.1 million would result in adjustments to the Company's deferred taxes. On December 31, 2018, the Company filed a non-automatic accounting method change related to the chargebacks and rebates reserves that accounts for $27.1 million of the unrecognized tax benefits. It is pending approval from the Internal Revenue Service as of June 30, 2019, and as such the Company reasonably expects this balance to reverse during 2019. The Company accounts for interest and penalties as income tax expense. During the six month period ended June 30, 2019, the Company recorded no penalties and $2.8 million interest related to unrecognized tax benefits. As of June 30, 2019, the Company had accrued a total of $8.6 million and $14.8 million of penalties and interest, respectively.

Note 15 – Related Party Transactions

In 2019 and 2018, the Company obtained legal services from Polsinelli PC, a firm for which the spouse of the Company's Executive Vice President, General Counsel and Secretary is a shareholder. During the three month periods ended June 30, 2019 and 2018, the Company obtained legal services totaling $1.8 million and $1.1 million, respectively. During the six month periods ended June 30, 2019 and 2018, the Company obtained legal services totaling $3.3 million and $1.7 million, respectively, of which $1.2 million and $1.1 million was payable as of June 30, 2019 and 2018, respectively.

During the three month periods ended June 30, 2019 and 2018, the Company also obtained and paid legal services totaling $0.0 million and $0.2 million, respectively, 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 shareholder. During the six month periods ended June 30, 2019 and 2018, the Company also obtained and paid legal services totaling $0.1 million and $0.4 million to the same firm.

Note 16 – Recently Issued and Adopted Accounting Pronouncements

Recently Issued Accounting Pronouncements

In August 2018, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. 2018-15 — *Intangibles — Goodwill and Other—Internal-Use Software (Subtopic 350-40): Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract (a consensus of the FASB Emerging Issues Task Force).* The amendments in this ASU are effective for public business entities for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. Early adoption of the amendments in this Update is permitted, including adoption in any interim period, for all entities. The amendments in this Update should be applied either retrospectively or prospectively to all implementation costs incurred after the date of adoption. The Company believes that the adoption of this ASU will not have a material impact on its financial position, results of operations or cash flows.

In August 2018, the FASB issued ASU No. 2018-13—*Fair Value Measurement (Topic 820): Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement.* The amendments in this ASU are effective for all entities for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. The amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and the narrative description of measurement uncertainty should be applied prospectively for only the most recent interim or annual period presented in the initial fiscal year of adoption. All other amendments should be applied retrospectively to all periods presented upon their effective date. Early adoption is permitted upon issuance of this Update. An entity is permitted to early adopt any removed or modified disclosures upon issuance of this ASU and delay adoption of the additional disclosures until their effective date. The Company believes that the adoption of this ASU will not have a material impact on its financial position, results of operations or cash flows.

Recently Adopted Accounting Pronouncements

In June 2018, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. 2018-07, *Compensation—Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting.* The amendments in this ASU expand the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from nonemployees. Under this ASU, an entity should apply the requirements of Topic 718 to nonemployee awards except for specific guidance on inputs to an option pricing model and the attribution of cost (that is, the period of time over which share-based payment awards vest and the pattern of cost recognition over that period). The amendments specify that Topic 718 applies to all share-based payment transactions in which a grantor acquires goods or services to be used or consumed in a grantor's own operations by issuing share-based payment awards. The amendments also clarify that Topic 718 does not apply to share-based payments used to effectively provide (1) financing to the issuer or (2) awards granted in conjunction with selling goods or services to customers as part of a contract accounted for under Topic 606, Revenue from Contracts with Customers. The standard was adopted on January 1, 2019, and did not have a material impact on the Company's financial statements or financial statement disclosures.

In February 2016, FASB issued ASU No. *2016-02 - Leases* (Topic 842), as modified by subsequently issued ASUs 2019-01, 2018-10, 2018-11 and 2018-20 (collectively ASU 2016-02). ASU 2018-02 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. The new standard initially required 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. In July 2018, the FASB decided to provide another transition method in addition to the existing transition method by allowing entities to initially apply the new leases standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. This additional transition method changes only when an entity is required to initially apply the transition requirements of the new leases standard; it does not change how those requirements apply. We elected the practical expedient to not separate non-lease components, to not provide comparative reporting periods and the 'package of practical expedients', which permits us to forgo reassessment of our prior conclusions about lease identification, lease classification and initial direct costs for leases entered into prior to the effective date. We did not elect the use-of-hindsight practical expedient. We have completed our review of all material leases including the search for any embedded leases, elected the package of practical expedients and accounting policy, and finalized our assessment of the overall financial statement impact. We adopted the ASC on January 1, 2019, using the modified retrospective method and did not restate comparative periods. At adoption, we recorded Total Lease liabilities of $24.7 million and Total Right-of-use assets, net of $23.0 million in its consolidated statement of financial position. The impact on the Company's results of operations did not materially differ from recorded amounts under

ASC 840. The impact of the adoption of this ASU is non-cash in nature and therefore did not materially affect the Company's cash flows. See *Note 17 — Leasing Arrangements* for additional disclosures.

In May 2017, the FASB issued ASU No. *2017-09, 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 standard was adopted on January 1, 2018, and did not have a material impact on the Company's consolidated financial statements or financial statement disclosures.

In March 2017, the FASB issued ASU No. 2017-07 — *Compensation — Retirement Benefits (Topic 715): Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost,* which apply to all employers, including not-for-profit entities, that offer to their employees defined benefit pension plans, other postretirement benefit plans, or other types of benefits accounted for under Topic 715. The amendments in this ASU require that an employer report the service cost component in the same line item or items as other compensation costs arising from services rendered by the pertinent employees during the period. The other components of net benefit cost as defined in paragraphs 715-30-35-4 and 715-60- 35-9 are required to be presented in the income statement separately from the service cost component and outside a subtotal of income from operations, if one is presented. If a separate line item or items are used to present the other components of net benefit cost, that line item or items must be appropriately described. If a separate line item or items are not used, the line item or items used in the income statement to present the other components of net benefit cost must be disclosed. The amendments in this ASU also allow only the service cost component to be eligible for capitalization when applicable (for example, as a cost of internally manufactured inventory or a self-constructed asset). The standard was adopted on January 1, 2018, and did not have a material impact on the Company's consolidated financial statements or financial statement disclosures.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash (a consensus of the FASB Emerging Issues Task Force)*, which addresses classification and presentation of changes in restricted cash on the statement of cash flows. The standard requires an entity's reconciliation of the beginning-of-period and end-of-period total amounts shown on the statement of cash flows to include in cash and cash equivalents amounts generally described as restricted cash and restricted cash equivalents. The ASU does not define restricted cash or restricted cash equivalents, but an entity will need to disclose the nature of the restrictions. The standard was adopted on January 1, 2018, and did not have a material impact on the Company's consolidated financial statements 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*. The standard was adopted on January 1, 2018, and did not have a material impact on the Company's consolidated financial statements or financial statement disclosures.

In May 2014, FASB issued *ASU 2014-09 - Revenue from Contracts with Customers (Topic 606)*, as modified by subsequently issued *ASUs 2015-14, 2016-08, 2016-10, 2016-12 and 2016-20 (collectively ASU 2014-09). ASU 2014-09* superseded the revenue recognition requirements in *ASC (Topic 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*. Similar to the previous guidance, the Company makes significant estimates related to variable consideration at the point of sale, including chargebacks, rebates, product returns, and other discounts and allowances. Revenue is recognized at a point in time upon the transfer of control of the Company's products, which occurs upon delivery for substantially all of the Company's sales. The Company has adopted the practical expedient to exclude all sales taxes and contract fulfillment costs from the transaction price. The Company adopted the standard effective January 1, 2018, using the modified retrospective approach. The adoption of *ASU 2014-09* did not have a material impact on the Company's consolidated financial position, results of operations, equity or cash flows as of the adoption date or for the three months ended March 31, 2018. See *Note 13 — Customer, Supplier and Product Concentration* for the disaggregation of net revenues by major customers.

Note 17 — Leasing Arrangements

The Company leases real and personal property in the normal course of business under various operating leases and other insignificant finance leases, including non-cancelable and immaterial month-to-month agreements. We recognize rent expense on a straight-line basis over the lease term. During the three and six month periods ended June 30, 2019, total lease cost was $2.1 million and $3.3 million, respectively. During the three and six month period ended June 30, 2018, total lease cost under ASC 840 was $2.5 million and $3.2 million, respectively.

The following table sets forth the Company's lease cost components (in thousands):

	Three Months Ended June 30, 2019	Six Months Ended June 30, 2019
Operating lease cost	$ 1,261	$ 2,413
Amortization of finance lease assets	3	49
Interest on finance lease liabilities	1	8
Short-term lease cost	16	27
Variable lease cost	793	793
Sublease income	(6)	(6)
Total lease cost (1)	$ 2,068	$ 3,284

(1) Of the three and six month periods ended June 30, 2019, lease cost amount, $1.1 million and $1.7 million is being reported in selling, general and administrative, $0.4 million and $0.8 million in cost of sales and $0.5 million and $0.8 million in research and development expenses within the Condensed Consolidated Statement of Comprehensive (Loss), respectively.

The following table sets forth the Company's Supplemental cash flow information related to leases (in thousands):

	Six Months Ended June 30, 2019
Cash paid for amounts included in the measurement of lease liabilities:	
Operating cash flows from operating leases	$ 2,363
Operating cash flows from finance leases	8
Financing cash flows from finance leases	338
	As of June 30, 2019
Right-of-use assets, net obtained in exchange for new lease obligations:	
Operating leases	23,695
Finance leases	$ 71

The following table sets forth the Company's Supplemental balance sheet information related to leases (in thousands):

		June 30, 2019
Right-of-use assets, net:		
Operating leases, gross	$	23,695
Accumulated amortization		1,153
Operating leases, net	$	22,542
Finance leases (included in "Other non-current assets"), gross		71
Accumulated depreciation		11
Finance leases (included in "Other non-current assets"), net	$	60
Total Right-of-use assets, net	$	22,602
Lease liabilities:		
Current portion of Operating lease liability	$	2,472
Long-term Operating lease liability		21,877
Total Operating lease liability	$	24,349
Current portion of Finance lease (included in "Accrued expenses and other liabilities") liability	$	20
Long-term Finance lease (included in "Pension obligations and other liabilities") liability		44
Total Finance lease liability	$	64
Total Lease liabilities	$	24,413

The following table sets forth the Company's Weighted-average lease terms and discount rates (lease term in years):

	June 30, 2019
Weighted-average remaining lease terms:	
Operating leases	8.67
Finance leases	3.09
Weighted-average discount rates:	
Operating leases	10.00%
Finance leases	5.50%

The following table sets forth the Company's scheduled maturities of lease liabilities as of June 30, 2019 (in thousands):

Year ending December 31,		**Operating leases**		**Finance leases**
2019 (last six months of 2019)	$	2,340	$	11
2020		4,594		23
2021		4,476		22
2022		4,214		13
2023		3,548		—
2024 and thereafter		17,913		—
Total lease payments (1)	$	37,085	$	69
Less: Imputed interest	$	12,736	$	5
Total lease liabilities	$	24,349	$	64

(1) Under ASC 842, the Company is required to take into consideration contractual lease renewal options that are reasonably assured to be exercised when determining the lease liability at transition. As of June 30, 2019, the Company has approximately $11 million of reasonably assured renewal option payments included in the total lease payments.

The following table sets forth the Company's scheduled of future minimum rental payments for operating leases under ASC 840 as of December 31, 2018 (in thousands):

Year ending December 31,		Operating leases
2019	$	4,564
2020		4,647
2021		4,283
2022		3,724
2023		2,673
2024 and thereafter		6,976
Total lease payments	$	26,867

Note 18 — Pension plan and 401(k) Program

Akorn AG Pension Plan

The Company maintains a pension plan for its employees in Switzerland as required by local law. The pension plan is funded by contributions by both employees and employers, with the sum of the contributions made by the employer required to be at least equal to the sum of the contributions made by employees. The Company contributes the necessary amounts required by local laws and regulations. Plan assets for the pension plan are held in a retirement trust fund with investments primarily in publicly traded securities and assets.

The purpose of this pension plan is to provide pension benefits. Some of the pension funds also provide benefits in case of disability and to the next of kin in case of premature death. Additionally, the pension funds can be used before retirement to buy a principal residence, to start an independent activity, or when leaving Switzerland permanently. If a participant leaves the company, accumulated pension funds are transferred either into a savings account or into the pension fund of a new employer.

The following table sets forth the components of net periodic cost for our pension plan:

Components of net periodic benefit cost	($ in thousands)				($ in thousands)			
	Three Months Ended				Six Months Ended			
	June 30,				June 30,			
		2019		2018		2019		2018
Service cost	$	629	$	352	$	1,261	$	909
Interest cost		61		32		122		83
Expected return on plan assets		(174)		(120)		(349)		(309)
Amortization of:								
Prior service (benefit)		(5)		(3)	$	(10)		(8)
Net actuarial loss		48		—	$	97		—
Participant contributions		(193)		(106)	$	(387)		(274)
Net periodic benefit cost	$	366	$	155	$	734	$	401

The Company contributed approximately $0.8 million for the six month period ended June 30, 2019, and expects to contribute a total of approximately $1.6 million to the pension plan in 2019.

Smart Choice! Akorn's 401(k) Program

All U.S. full-time Akorn employees are eligible to participate in the Company's 401(k) Plan. The Company matches the employee contribution to 50% of the first 6% of an employee's eligible compensation. Company matching contributions vest 50% after two years of credited service and 100% after three years of credited service. During the three month periods ended June 30, 2019 and 2018, plan-related expenses totaled approximately $0.7 million and $0.8 million, respectively. During the six month periods ended June 30, 2019 and 2018, plan-related expenses totaled approximately $1.5 million and $1.5 million, respectively. The Company's matching contribution is funded on a current basis.

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the unaudited condensed consolidated financial statements and the related notes thereto included elsewhere in this Quarterly Report on Form 10-Q and the audited consolidated financial statements and notes thereto and management's discussion and analysis of financial condition and results of operations included in our Annual Report on Form 10-K for the year ended December 31, 2018 that was filed with the SEC on March 1, 2019.

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 Section 27A of the Securities Act of 1933, as amended (the "Securities Act") and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). 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, including, but not limited to: (i) the risk that the parties will not enter into a definitive settlement agreement in connection with the Securities Class Action Litigation, (ii) the risk that the holders of a significant number of shares may opt out of and elect not to participate in or be bound by the proposed Securities Class Action Litigation settlement, (iii) the risk that a definitive settlement agreement in the Securities Class Action Litigation may not obtain the necessary approval by the court or may be terminated in accordance with its terms, (iv) the risk that insurance proceeds, common shares or other consideration contemplated to be exchanged pursuant to the proposed Securities Class Action Litigation settlement is not available at the appropriate time and (v) the other risks and uncertainties outlined in the risk factors detailed in "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, as filed with the SEC on March 1, 2019, our Quarterly Report on Form 10-Q as filed with the SEC on May 9, 2019 and in part II Item 1A herein.

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 (Loss) and our segment reporting information for the three and six month periods ended June 30, 2019 and 2018 (dollar amounts in thousands):

	Three Months Ended June 30,				Six Months Ended June 30,			
	2019		2018		2019		2018	
	Amount	% of Revenue	Amount	% of Revenue	Amount	% of Revenue	Amount	% of Revenue
Revenues, net:								
Prescription Pharmaceuticals	$ 158,379	88.9 %	$ 172,163	90.2 %	$ 306,394	89.1 %	$ 336,464	89.7 %
Consumer Health	19,678	11.1 %	18,781	9.8 %	37,534	10.9 %	38,543	10.3 %
Total revenues, net	178,057	100.0 %	190,944	100.0 %	343,928	100.0 %	375,007	100.0 %
Gross profit:								
Prescription Pharmaceuticals	59,785	37.7 %	73,286	42.6 %	105,228	34.3 %	146,794	43.6 %
Consumer Health	8,199	41.7 %	7,993	42.6 %	16,269	43.3 %	16,713	43.4 %
Total gross profit	67,984	38.2 %	81,279	42.6 %	121,497	35.3 %	163,507	43.6 %
Operating expenses:								
Selling, general and administrative expenses	61,042	34.3 %	83,758	43.9 %	133,540	38.8 %	146,752	39.1 %
Research and development expenses	9,495	5.3 %	11,371	6.0 %	18,209	5.3 %	24,015	6.4 %
Amortization of intangibles	9,950	5.6 %	13,182	6.9 %	21,015	6.1 %	26,372	7.0 %
Impairment of intangible assets	394	0.2 %	64,534	33.8 %	10,748	3.1 %	83,349	22.2 %
Impairment of goodwill	—	— %	—	— %	15,955	4.6 %	—	— %
Litigation rulings, settlements and contingencies	74,469	41.8 %	(400)	(0.2)%	74,879	21.8 %	(400)	(0.1)%
Operating (loss)	$ (87,366)	(49.1)%	$ (91,166)	(47.7)%	$ (152,849)	(44.4)%	$ (116,581)	(31.1)%
Other expense, net	(22,751)	(12.8)%	(13,090)	(6.9)%	(38,029)	(11.1)%	(23,702)	(6.3)%
(Loss) before income taxes	(110,117)	(61.8)%	(104,256)	(54.6)%	(190,878)	(55.5)%	(140,283)	(37.4)%
Income tax provision (benefit)	1,482	0.8 %	(16,272)	(8.5)%	2,902	0.8 %	(23,552)	(6.3)%
Net (loss)	$ (111,599)	(62.7)%	$ (87,984)	(46.1)%	$ (193,780)	(56.3)%	$ (116,731)	(31.1)%

THREE MONTHS ENDED JUNE 30, 2019 COMPARED TO THREE MONTHS ENDED JUNE 30, 2018

Net revenue was $178.1 million for the three month period ended June 30, 2019, representing a decrease of $12.8 million, or 6.7%, as compared to net revenue of $190.9 million for the three month period ended June 30, 2018. The decrease in net revenue in the period was primarily due to $15.0 million decline in organic revenue that was partially offset by $2.6 million net revenue increase in new products and product relaunches. The $15.0 million decline in organic revenue was due to approximately $29.2 million, or 15.3% in volume declines partially offset by $14.2 million, or 7.5% of favorable price variance. The volume decline was principally due to the effect of competition on a number of products, including Fluticasone Rx, Methylene Blue and Clobetasol Cream, as well as supply shortfalls from the continued production ramp-up at our Somerset manufacturing facility.

The Prescription Pharmaceuticals segment revenue of $158.4 million for the three month period ended June 30, 2019, represented a decrease of $13.8 million, or 8.0%, as compared to revenue of $172.2 million for the three month period ended June 30, 2018.

The Consumer Health segment revenue of $19.7 million for the three month period ended June 30, 2019, represented an increase of $0.9 million, or 4.8%, as compared to revenue of $18.8 million for three month period ended June 30, 2018.

The net revenue for the three month period ended June 30, 2019, of $178.1 million was net of adjustments totaling $288.0 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, 2019, were $192.7 million, or 41.4% of gross sales, compared to $222.5 million, or 43.8% of gross sales for the three month period ended June 30, 2018. The $29.8 million decrease in chargeback expense was due to volume declines as well as decreases in wholesale acquisition cost of certain products in the current period as compared to prior year. Rebates, administrative fees and other expenses for the three month period ended June 30, 2019, were $78.0 million, or 16.7% of gross sales, compared to $75.1 million, or 14.8% of gross sales for three month period ended June 30, 2018. The $2.9 million increase in rebates, administrative fees and other expenses was primarily due to product mix, customer mix and charges for shelf stock adjustments related to decreases in wholesale acquisition cost of certain products. Our product returns provision for the three month period ended June 30, 2019, was $5.5 million, or 1.2% of gross sales, compared to $6.1 million, or 1.2% of gross sales for the three month period ended June 30, 2018. Discounts and allowances were $9.0 million, or 1.9% of gross sales for the three month period ended June 30, 2019, compared to $9.9 million, or 2.0% of gross sales for the three month period ended June 30, 2018. Advertisement and promotion expenses were $2.8 million, or 0.6% of gross sales for the three month period ended June 30, 2019, compared to $3.2 million, or 0.6% of gross sales for the three month period ended June 30, 2018.

Consolidated gross profit for the quarter ended June 30, 2019, was $68.0 million, or 38.2% of net revenue, compared to $81.3 million, or 42.6% of net revenue, in the corresponding prior year quarter. The decline in the gross profit percentage was principally due to increased operating costs associated with FDA compliance related improvement activities as well as increased inventory loss that was partially offset by favorable price and product mix.

Total operating expenses were $155.4 million in the three month period ended June 30, 2019, a decrease of $17.0 million, or 9.9%, from the prior year quarter amount of $172.4 million. The $17.0 million decrease was primarily driven by decreases of $64.1 million and $22.8 million in impairment of intangibles and selling, general and administrative ("SG&A"), respectively, offset by an increase of $74.9 million in litigation rulings, settlements and contingencies. The following is a discussion of the main drivers of the decrease:

Litigation rulings, settlements and contingencies were $74.5 million in the three month period ended June 30, 2019, an increase of $74.9 million, from the comparative prior year period amount of ($0.4) million. The primary driver of the $74.9 million increase was the charge and corresponding liability of $74.0 million taken in connection with the non-binding agreement in principle to settle the Securities Class Action Litigation. Refer to Part I - Item 1, Note 12 - "*Commitments and Contingencies*" for further information regarding such non-binding agreement in principle and the associated charge taken. The equity component of the settlement estimate is strongly correlated to the Company's stock price and may fluctuate until the related common shares are issued.

Impairments of intangible assets were $0.4 million in the three month period ended June 30, 2019, a decrease of $64.1 million, or 99.4% over the prior year amount of $64.5 million, which was primarily driven by IPR&D impairment expense of $61.6 million during the three months ended June 30, 2018.

SG&A expenses were $61.0 million in the three month period ended June 30, 2019, a decrease of $22.8 million, or 27.2%, from the prior year quarter amount of $83.8 million. The primary drivers of the $22.8 million decrease were $30.7 million in legal expenses related to the Delaware Action, which were partially offset by an increase of $4.3 million in refinancing advisory fees.

Non-operating expenses were $22.8 million in the three month period ended June 30, 2019, an increase of $9.7 million, or 73.8%, from the comparative prior year period amount of $13.1 million. The $9.7 million increase was primarily driven by $6.3 million increase in interest expense, of which $5.3 million related to higher interest rates associated with the effects of the

Standstill Agreement and other increases in the interest rates, and $4.4 million increase in amortization of deferred financing cost related to the amortization of the Standstill Agreement fees and the remaining unamortized Term Loan fees during the three month period ended June 30, 2019, compared to the same period in 2018.

For the three month period ended June 30, 2019, an income tax provision of approximately $1.5 million was recorded on our net loss before income taxes of $110.1 million, which represented an effective tax rate of 1.3%. In the prior year quarter ended June 30, 2018, our income tax benefit was $16.3 million based on an effective tax benefit rate of 15.6%. The reason for the overall tax provision rate of 1.3% during the three month period ended June 30, 2019 is due to the full valuation allowance recorded against our deferred tax assets.

The Company reported a net loss of $111.6 million for the three month period ended June 30, 2019, or 62.7% of net revenue, compared to net loss of $88.0 million for the three month period ended June 30, 2018, or 46.1% of net revenue.

SIX MONTHS ENDED JUNE 30, 2019 COMPARED TO SIX MONTHS ENDED JUNE 30, 2018

Net revenue was $343.9 million for the six month period ended June 30, 2019, representing a decrease of $31.1 million, or 8.3%, as compared to net revenue of $375.0 million for the six month period ended June 30, 2018. The decrease in net revenue in the period was primarily due to $33.1 million decline in organic revenue that was partially offset by $3.3 million net revenue increase in new products and product relaunches. The $33.1 million decline in organic revenue was due to approximately $56.8 million, or 15.2% in volume declines partially offset by $23.7 million, or 6.3% of favorable price variance. The volume decline was principally due to the effect of competition on a number of products, including Nembutal, Fluticasone Rx and Clobetasol Cream and supply shortfalls from the continued production ramp-up at our Somerset manufacturing facility.

The Prescription Pharmaceuticals segment revenue of $306.4 million for the six month period ended June 30, 2019, represented a decrease of $30.1 million, or 8.9%, as compared to revenue of $336.5 million for the six month period ended June 30, 2018.

The Consumer Health segment revenue of $37.5 million for the six month period ended June 30, 2019 represented a decrease of $1.0 million, or 2.6%, as compared to revenue of $38.5 million for the six month period ended June 30, 2018.

The net revenue for the six month period ended June 30, 2019, of $343.9 million was net of adjustments totaling $580.7 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, 2019, were $398.1 million, or 43.1% of gross sales, compared to $446.4 million, or 43.4% of gross sales for the six month period ended June 30, 2018. The $48.3 million decrease in chargeback expense was primarily due to volume declines as well as decreases in wholesale acquisition cost of certain products compared to prior year. Rebates, administrative fees and other expenses for the six month period ended June 30, 2019, were $142.2 million, or 15.4% of gross sales, compared to $167.4 million, or 16.3% of gross sales for the six month period ended June 30, 2018. The $25.2 million decrease in rebates, administrative fees and other expenses was primarily due to volume declines, product and customer mix, partially offset by shelf stock adjustments. Our product returns provision for the six month period ended June 30, 2019, was $17.4 million, or 1.9% of gross sales, compared to $13.3 million, or 1.3% of gross sales for the six month period ended June 30, 2018. The increase in product returns for the six month period ended June 30, 2019, as compared to the same period in 2018, was primarily due to the timing of returns processing. Discounts and allowances were $18.1 million, or 2.0% of gross sales for the six month period ended June 30, 2019, compared to $20.2 million, or 2.0% of gross sales for the six month period ended June 30, 2018. Advertisement and promotion expenses were $4.9 million, or 0.5% of gross sales for the six month period ended June 30, 2019, compared to $6.1 million, or 0.6% of gross sales for the six month period ended June 30, 2018.

Consolidated gross profit for the six month period ended June 30, 2019, was $121.5 million, or 35.3% of net revenue, compared to $163.5 million, or 43.6% of net revenue, in the corresponding prior year period. The decline in the gross profit percentage was principally due to increased operating costs associated with FDA compliance related improvement activities and increased inventory loss.

Total operating expenses were $274.3 million in the six month period ended June 30, 2019, a decrease of $5.8 million, or 2.1%, from the comparative prior year period amount of $280.1 million. The $5.8 million decrease was primarily driven by the following offsetting items: increases of $75.3 million and $16.0 million in Litigation rulings, settlements and contingencies and goodwill impairments, and decreases of $72.6 million, $13.3 million and $5.8 million in impairment of intangibles, selling, general and administrative ("SG&A") and research and development ("R&D") expenses, respectively. The following is a discussion of the main drivers of the decrease:

Litigation rulings, settlements and contingencies were $74.9 million in the six month period ended June 30, 2019, an increase of $75.3 million, from the comparative prior year period amount of ($0.4) million. The primary driver of the $75.3 million increase was the charge and corresponding liability of $74.0 million taken in connection with the non-binding agreement in principle to settle the Securities Class Action Litigation. Refer to Part I - Item 1, Note 12 - "*Commitments and Contingencies*" for further information regarding such non-binding agreement in principle and the associated charge taken. The equity component of the settlement estimate is strongly correlated to the Company's stock price and may fluctuate until the related common shares are issued.

Goodwill Impairments were $16.0 million in the six month period ended June 30, 2019, as a result of the Company announcing that it was exploring strategic alternatives to exit the India manufacturing facility.

Impairments of intangible assets were $10.7 million in the six month period ended June 30, 2019, a decrease of $72.6 million, or 87.1% over the prior year amount of $83.3 million. During the six month period ended June 30, 2019, the Company recorded Intangible assets impairment expense of $10.7 million on two product licensing rights and no IPR&D projects were impaired, compared to $3.9 million on five product licensing rights and $79.5 million on ten IPR&D projects during the comparative prior year period.

SG&A expenses were $133.5 million in the six month period ended June 30, 2019, a decrease of $13.3 million, or 9.0%, from the comparative prior year amount of $146.8 million. The primary drivers of the $13.3 million decrease were $21.6 million in legal expenses related to the Delaware Action and $8.8 million of expenses related to the data integrity assessment projects, which were partially offset by increases of $10.0 million and $8.8 million in refinancing advisory fees and India plant assets impairments, respectively.

R&D expenses were $18.2 million in the six month period ended June 30, 2019, a decrease of $5.8 million, or 24.2%, from the comparative prior year amount of $24.0 million due to timing of project related expenses and lower overall labor costs.

Non-operating expenses were $38.0 million in the six month period ended June 30, 2019, an increase of $14.3 million, or 60.4%, from the comparative prior year period amount of $23.7 million. The $14.3 million increase was primarily driven by $9.6 million increase in interest expense during the six month period ended June 30, 2019, compared to the same period in 2018, due to higher interest rates associated with the effects of the Standstill Agreement and other increases in the interest rates, and $4.4 million increase in amortization of deferred financing cost related to the amortization of the Standstill Agreement fees and the remaining unamortized Term Loan fees during the six month period ended June 30, 2019.

For the six month period ended June 30, 2019, we recorded an income tax provision of approximately $2.9 million on our net loss before income taxes of $190.9 million, which represented an effective tax provision rate of 1.5%. In the prior year six month period ended June 30, 2018, our income tax benefit was $23.6 million based on an effective tax provision rate of 16.8%. The decrease in the income tax rate as a percentage of (loss) before income tax for the six month period ended June 30, 2019, as compared to the same period in 2018, was principally due to the full valuation allowance recorded against our deferred tax assets.

The Company reported a net loss of $193.8 million for the six month period ended June 30, 2019, or 56.3% of net revenue, compared to net loss of $116.7 million for the six month period ended June 30, 2018, or 31.1% of net revenue.

FINANCIAL CONDITION AND LIQUIDITY

Overview

Our primary sources of liquidity have historically been cash generated from operations and borrowings under our Term Loans. Historically, our principal liquidity requirements have been to maintain and expand our business, pay principal and interest obligations on our Term Loans and other expenses, and for capital expenditures undertaken to upgrade, expand and improve our manufacturing facilities. More recently, our liquidity requirements also include expenses related to the Delaware Action, FDA compliance related enhancements, and the legal and financial advisory fees under the Standstill Agreement.

On July 16, 2019, the A&R Credit Agreement governing our asset-based revolving credit facility expired pursuant to its terms, and accordingly no longer provides a source of liquidity.

Our Term Loans are scheduled to mature on April 16, 2021. However, pursuant to the terms of the Standstill Agreement, we must refinance, enter into a Comprehensive Amendment, or otherwise address the outstanding Term Loans by December 13, 2019, or an event of default will occur under the Term Loan Agreements and we may be required to repay all outstanding amounts. Since our ability to enter into a Comprehensive Amendment with the Lenders is not fully within our control, and a failure to do so would result in an event of default under the Term Loan Agreements, these conditions in the aggregate raise substantial doubt about our ability to continue as a going concern.

We are actively working to refinance or otherwise address the Term Loans or enter into a Comprehensive Amendment to the Term Loan Agreements by December 13, 2019. Based on discussions with the Company's financial advisors, we believe that we will be able to refinance or otherwise address the Term Loans. Therefore, we believe that our cash reserves and operating cash flows will be sufficient to meet our cash needs for the next twelve months. However, we cannot provide any assurance we will be able enter into a Comprehensive Amendment or otherwise address the Term Loans by December 13, 2019. A failure to do so could materially and adversely affect our business, financial condition and results of operations.

Cash and Cash Flows

As of June 30, 2019, we had cash and cash equivalents of $178.3 million, which was $46.6 million less than our cash and cash equivalents balance of $224.9 million as of December 31, 2018. This decrease in cash and cash equivalents was driven by net operating cash outflows of $29.3 million, net investing cash outflows of $17.0 million, and net financing cash outflows of $0.6 million. Our net working capital was $(493.9) million at June 30, 2019, compared to $413.0 million at December 31, 2018, a decrease of $906.9 million primarily as a result of the reclassification of $828.3 million of debt from long term to current as a result of the obligation to enter into a Comprehensive Amendment by December 13, 2019 as a result of the Standstill Agreement.

Operating Cash Flows

During the six month period ended June 30, 2019, net cash used in operating activities was $29.3 million. This use of cash was primarily driven by approximately $41 million of costs related to FDA compliance-related activities, data integrity assessments, and refinancing advisory services.

During the six month period ended June 30, 2018, net cash used in operating activities was $31.3 million. This use of cash was driven by an increase of approximately $46 million in trade accounts receivable and approximately $17 million of costs related to data integrity assessments.

Investing Cash Flows

We used approximately $17.0 million in investing activities during the six month period ended June 30, 2019 to acquire property, plant and equipment.

We used approximately $35.9 million in investing activities during the six month period ended June 30, 2018 to acquire property, plant and equipment.

Financing Cash Flows

Financing activities used $0.6 million in the six month period ended June 30, 2019, consisting of $0.3 million for lease payments and $0.3 million for stock compensation withholdings for employee taxes related to vested RSUs.

Financing activities used $4.5 million in the six month period ended June 30, 2018, consisting of $4.8 million used for consideration payable payments, partially offset by $0.3 million of proceeds from employee stock option exercises.

Liquidity Considerations

On May 6, 2019, the Company and certain Lenders entered into the Standstill Agreement. Pursuant to the terms of the Standstill Agreement, the Company must enter into a Comprehensive Amendment to the Term Loan Agreements that is satisfactory in form and substance to the Lenders. If the Company does not enter into a Comprehensive Amendment by December 13, 2019 or refinance or otherwise address the outstanding Term Loans, an event of default will occur under the Term Loan Agreements which, if not waived, could materially affect the Company's business, financial position and results of operations. If an event of default occurs and the Lenders accelerate the obligations under the Term Loan Agreements, the Company may not be able to repay the obligations that become immediately due and it could have a material negative impact on the Company's liquidity and business. The Standstill Agreement also requires us to pay certain fees and expenses and provides for an increased interest rate. Refer to Item 1, Note 8 - "*Financing Arrangements*" for further detail of debt obligations as of and for the quarter ended June 30, 2019, and for a description of the terms of the Standstill Agreement. In addition, refer to Item 1, Note 2 - "*Summary of Significant Accounting Policies*," for management's going concern assessment and Part II, Item 1A. "Risk Factors" for certain risks related to the Standstill Agreement.

CONTRACTUAL OBLIGATIONS

Except for changes to the Term Loans as a result of the Standstill Agreement as described in Part I, Item 1, Note 8 - "Financing Arrangements -Term Loans," there have been no material changes in the information reported under Part II, Item 7 - "Management's Discussion and Analysis of Financial Condition and Results of Operations - Contractual Obligations" in our Form 10-K for the fiscal year ended December 31, 2018.

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, 2018, 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.

Except for the interest rate spreads as described in Part I, Item 1, Note 8 - "Financing Arrangements-Term Loans," the expiration of the A&R Credit Agreement, and our cash and cash equivalent balances, there have been no material changes 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, 2018.

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 Exchange Act, for the three month period ended June 30, 2019. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to its management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

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 as of June 30, 2019.

In prior filings, we identified and reported a material weakness in our internal control over financial reporting related to our internal controls over the accounting for Stock Award Modifications, which are non-routine in nature. 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 interpretation and calculation of stock award modifications with respect to accelerated vesting in conjunction with separation packages and other non-routine performance awards granted. We also believe the Company has now demonstrated the effectiveness of the new processes for a sufficient period of time to remediate the material weakness. Therefore, all remedial actions as described fully in our 2018 Form 10-K, as filed on March 1, 2019, 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 Exchange Act) for the three month period ended June 30, 2019, 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 9, 2019, and set forth 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, 2018:

Risks related to the Standstill Agreement

The Standstill Agreement with our lenders requires us to observe certain covenants, which creates material uncertainties and risks to our growth and business outlook, and any failure to comply with the Standstill Agreement could result in an event of default under the Term Loan Agreements and render us insolvent.

On May 7, 2019, the Company announced that it entered into a Standstill Agreement and First Amendment (the "Standstill Agreement") in respect of the Term Loan Agreements with an ad hoc group of lenders (the "Ad Hoc Group"), certain other lenders (together with the Ad Hoc Group, the "Standstill Lenders") and JPMorgan Chase Bank, N.A., as administrative agent (the "Term Loan Administrative Agent").

The Standstill Agreement provides that, for the duration of the Standstill Period (as defined below), among other matters, neither the Term Loan Administrative Agent nor the lenders may (i) declare any event of default under the Term Loan Agreements or (ii) otherwise seek to exercise any rights or remedies, in each case of clauses (i) and (ii) above, to the extent directly relating to any alleged event of default arising from any alleged breach of any of the covenants contained in Sections 5.01, 5.02, 5.03, 5.06 or 5.07 of the Term Loan Agreements, to the extent the facts and circumstances giving rise to any such breach have been (x) publicly disclosed by the Company or (y) disclosed in writing by the Company to private side lenders or certain advisors to the Ad Hoc Group (collectively, the "Specified Matters"). "Standstill Period" means the period of time from the effective date of the Standstill Agreement (the "Effective Date") through the earliest of (a) December 13, 2019; (b) the delivery of a notice of termination of the Standstill Period by lenders holding a majority of the Term Loans (the "Required Lenders") upon the occurrence of a default or event of default under the Term Loan Agreements, excluding any default or event of Default relating to a Specified Matter; or (c) the delivery of a notice of termination of the Standstill Period by the Required Lenders as a result of any breach of, or non-compliance with, any provision of the Standstill Agreement by the Akorn Loan Parties, including without limitation any such breach or noncompliance by the Akorn Loan Parties of or with any affirmative covenants, milestones, negative covenants or other covenants set forth in the Standstill Agreement, subject, in each case, to any applicable cure period expressly set forth therein.

In exchange for the lenders' agreement to standstill during the Standstill Period, the Standstill Agreement requires the Company to comply with certain affirmative covenants, including delivery of certain financial and other reporting to the lenders or their advisors. The Company is also required to participate in various update calls with the lenders and their advisors. Preparation of such deliverables and participation in such update calls could distract the Company's management from their focus on the Company's business operations, which could materially affect the Company's business, financial position and results of operations. The failure by the Company to comply with any of these covenants could result in the termination of the Standstill Agreement by the lenders. Any termination of the Standstill Agreement would allow the lenders to assert any events of default with respect to the Specified Matters that are otherwise precluded by the Standstill Agreement and, as a result thereof, all obligations under the Term Loan Agreements could be declared to be immediately due and payable.

The Standstill Agreement also imposes a number of restrictions on the Company, including restrictions on:

- consummating certain asset sales and investments;
- making certain restricted payments with respect to the Company's common stock and any subordinated indebtedness;
- engaging in sale and leaseback transactions;
- incurring certain liens and indebtedness;

- reinvesting any proceeds received from certain asset sales; and
- designating any restricted subsidiary as an unrestricted subsidiary, or otherwise creating or forming any unrestricted subsidiary, and/or transferring any assets of the Company or any of its restricted subsidiaries to any unrestricted subsidiary, except as otherwise permitted under the Term Loan Agreements (after giving effect to the Standstill Agreement).

These restrictions are in addition to those otherwise contained in the Term Loan Agreements.

The Standstill Agreement also restricts the Company's ability to make payments in excess of $20 million in respect of settlements or judgments of certain ongoing litigation matters of the Company (a "Specified Litigation Payment") over the objection of the Ad Hoc Group. If any such payment is made over the objection of the Ad Hoc Group, the Required Lenders could (i) terminate the Standstill Period and assert any events of default under the Term Loan Agreements with respect to the Specified Matters that are otherwise precluded by the Standstill Agreement, and (ii) assert a separate event of default under the Term Loan Agreements if such payment has a material adverse effect on the Company. The failure of the Company to comply with the covenant in respect of the Specified Litigation Payment during the Standstill Period would result in an event of default under the Term Loan Agreements. Additionally, the failure by the Company to discharge an unstayed judgment in excess of $20 million for a period of thirty days would constitute a separate event of default under the Term Loan Agreements. If a judgment were to be rendered against the Company in excess of $20 million, an event of default could occur if the Company were to make such payment *and* an event of default could occur if the Company were to fail to make such payment which, in either case, if not waived, could materially affect the Company's business, financial position and results of operations.

The non-binding agreement in principle with respect to the Securities Class Action Litigation provides that the D&O Proceeds Payment will come from D&O insurance proceeds only; accordingly, the D&O Proceeds Payment, if made, would not constitute "Specified Litigation Payments" under the Standstill Agreement.

The Company's ability to comply with these covenants and restrictions may be affected by events beyond its control and its failure to comply, or obtain a waiver in the event it cannot comply, could result in an event of default under the Term Loan Agreements that, if not waived, could materially affect the Company's business, financial position and results of operations.

As a result of these covenants and restrictions, the Company may be limited in its ability to conduct its business, and respond to changing business, market and economic conditions. These provisions may also limit the Company's ability to pursue new business opportunities and strategies. The Standstill Agreement may also result in business uncertainties during the Standstill Period and require substantial attention of management of the Company. These uncertainties may impair the Company's ability to attract, retain and motivate key personnel, and could cause partners and others that deal with the Company to seek to change existing business relationships, cease doing business with the Company or cause potential new partners to delay doing business with the Company. The failure to retain key personnel or attract new personnel could materially affect the Company's business, financial position and results of operations.

Pursuant to the terms of the Standstill Agreement, the Company must enter into a comprehensive amendment of the Term Loan Agreements (a "Comprehensive Amendment") that is satisfactory in form and substance to the lenders. If the Company does not enter into such a Comprehensive Amendment by December 13, 2019, an event of default will occur under the Term Loan Agreements which, if not waived, could materially affect the Company's business, financial position and results of operations, and could render us insolvent.

The Company has agreed to negotiate in good faith with the lenders under the Term Loan Agreements to enter into a Comprehensive Amendment. If the Company is not able to reach agreement with such lenders on or before November 15, 2019, the Company must pay an in-kind fee in an amount equal to 0.625% of the loans outstanding on such date and at that time pledge all equity interests in its foreign subsidiaries that are not then subject to a lien in favor of the lenders. If the Company is not able to reach agreement with such lenders on or before December 13, 2019 and the loans under the Term Loan Agreements remain outstanding on such date, such failure would constitute an immediate event of default under the Term Loan Agreements. If an event of default occurs and the lenders accelerate the obligations under the Term Loan Agreements, we may not be able to repay the obligations that become immediately due and it could have a material negative impact on our liquidity and on our business. If we do not have sufficient funds on hand to pay our debt when due, we may be required to refinance our indebtedness, incur additional indebtedness, sell assets or sell additional securities. There is no guarantee that the Company may be able to reach any such Comprehensive Amendment, or that any Comprehensive Amendment would be satisfactory in form and substance to the lenders which is in the sole discretion of the lenders.

The Standstill Agreement requires the Company to pay certain fees and expenses and provides for an increased interest margin, which may negatively impact the Company's financial condition.

The Standstill Agreement requires the Company to pay certain fees, including: (i) a one-time in-kind fee in an amount equal to 1.75% of the aggregate principal amount of the loans of the Standstill Lenders on the Effective Date, which fee was paid in kind on such date; (ii) fees and expenses of certain advisors to the Ad Hoc Group; and (iii) a one-time in-kind fee in an amount equal to 0.625% of the loans outstanding under the Term Loan Agreements on November 15, 2019 if a Comprehensive Amendment is not entered into on or before such date, which fee will be payable in kind on such date.

The Standstill Agreement also increases the interest margins the Company is required to pay under the Term Loan Agreements by 1.50% (*i.e.*, 150 basis points), with 0.75% (*i.e.*, 75 basis points) of such increase payable in cash and 0.75% (*i.e.*, 75 basis points) of such increase payable in kind. If the Company does not comply with the terms and conditions of the Standstill Agreement, the failure to comply would result in an additional 0.50% (*i.e.*, 50 basis points) increase to the interest margins, which increased interest would be payable in kind.

Additionally, if the Company prepays or repays outstanding loans under the Term Loan Agreements during the Standstill Period (other than as a result of any asset sale, condemnation event, incurrence of non-permitted indebtedness or excess cash flow), the Company is required to pay a fee in an amount equal to 0.625% of the outstanding principal of loans so prepaid or repaid.

Any amounts paid in cash will reduce the Company's cash on hand, which could materially affect the Company's business, financial position and results of operations. Any payments in kind or premium to be paid in connection with any repayment or prepayment of the loans may need to be paid by the Company in cash in order to successfully refinance the outstanding loans.

Risks related to John N. Kapoor's, Ph.D., ownership of Company stock

As a result of a jury verdict finding John N. Kapoor, Ph.D., guilty in a federal criminal case, OIG-HHS's permissive exclusion rules could lead to the Company's exclusion from participating in U.S. government healthcare programs, which could have a material adverse effect on our business, financial condition and results of operations.

The Office of the Inspector General of the U.S. Department of Health and Human Services ("OIG-HHS") has permissive authority to exclude individuals and entities convicted of certain crimes from participation in U.S. government healthcare programs, including Medicare and Medicaid. Under OIG-HHS's permissive exclusion rules, OIG-HHS may exclude an entity from participation in U.S. government healthcare programs if an individual with a direct or indirect ownership or control interest of 5% or more in such entity is convicted of certain criminal offenses.

John N. Kapoor, Ph.D., is a principal shareholder of the Company. As of June 30, 2019, Dr. Kapoor beneficially owned approximately 23% of our common stock. On July 19, 2019, Dr. Kapoor filed an amendment to his Schedule 13D
with the SEC indicating that he relinquished voting and investment power over 26,038,551 shares of common stock by resigning his position as trustee of various trusts and as officer and director of certain companies and by granting a proxy that is irrevocable for three years. If such proxy is ultimately revoked, Dr. Kapoor would regain certain of the voting or investment power that he indicated he had previously relinquished. On May 2, 2019, a federal jury found Dr. Kapoor guilty of racketeering conspiracy. Due to the jury verdict finding Dr. Kapoor guilty, OIG-HHS's permissive exclusion rules could lead to the exclusion of the Company from participation in U.S. government healthcare programs, which could have a material adverse effect on our business, financial condition and results of operations.

John N. Kapoor's, Ph.D., involvement with the Company through his stock ownership and his right to nominate up to three directors could have an adverse effect on the price of our common stock and have substantial influence over our business strategies and policies.

John N. Kapoor, Ph.D., is a principal shareholder of the Company. As of June 30, 2019, Dr. Kapoor beneficially owned approximately 23% of our common stock. On July 19, 2019, Dr. Kapoor filed an amendment to his Schedule 13D
with the SEC indicating that he relinquished voting and investment power over 26,038,551 shares of common stock by resigning his position as trustee of various trusts and as officer and director of certain companies and by granting a proxy that is irrevocable for three years. If such proxy is ultimately revoked, Dr. Kapoor would regain certain of the voting or investment power that he indicated he had previously relinquished. On May 2, 2019, a federal jury found Dr. Kapoor guilty of racketeering conspiracy. As a result of the verdict and the permissive exclusion rules of the OIG-HHS with respect to participation in U.S. government healthcare programs, it is possible Dr. Kapoor will divest all or a part of his ownership in the Company. Further, NASDAQ has the discretionary authority to deny continued listing to a company when an individual with a

history of regulatory misconduct is associated with a company. As a result of the jury verdict finding Dr. Kapoor guilty, it is possible Dr. Kapoor would be required to divest all or a part of his ownership in the Company in order for the Company to continue to be listed on NASDAQ.

Through the Kapoor Trust, Dr. Kapoor is entitled to nominate one person to serve on our Board. As President and sole director of EJ Financial Enterprises, Inc., which is the managing general partner of EJ Funds LP and holder of Dr. Kapoor's proxy as a stockholder of this entity, Rao Akella is entitled to nominate up to two persons to serve on our Board. Dr. Kapoor's proxy with respect to such shares in EJ Financial Enterprises, Inc., is revocable after three years. Mr. Brian Tambi was nominated for these purposes by EJ Funds LP. The other seats for nomination are vacant. Nomination of any directors to our Board or any trading of our common stock or divestments by Dr. Kapoor and his related parties or his proxies could have an adverse effect on the price of our common stock and an adverse effect on our business.

Risks related to the sale of our India manufacturing facility

We may not be able to recover all or any of the net asset value and may incur additional costs as we exit our India manufacturing facility.

Risks related to regulations

Our regulatory environment is changing and failure to meet the changes could result in penalties, reputational damage and negative impacts on our operations and financial results.

Our extensive regulatory environment is changing rapidly. Many state and local legislatures have passed, and are considering passing, legislation requiring drug companies to report more detailed business information regarding pricing changes and distribution patterns, and imposing new responsibilities such as for collection or disposal of unused drugs. Some regulatory and legislative activity targets manufacturers and distributors of opioids in particular. Privacy and data protection laws and regulations also continue to evolve, in both the United States and other jurisdictions where we operate. As a result, we and some of our distributors and customers face increased regulatory scrutiny and new obligations. Responding to the changes in our regulatory environment places a strain on our internal resources and impacts certain business relationships. If we fail to meet any of the changes, we could face penalties, reputational harm, additional obligations, negative impacts on our operations, and government enforcement actions.

Our inability to timely and adequately address FDA warning letters and OAI facility status may adversely affect our business.

During 2018, we had FDA inspections at our Decatur and Somerset facilities that resulted in OAI status for both facilities. We received a warning letter in January 2019 related to the 2018 Decatur, Illinois inspection, and we received a warning letter in June 2019 related to the 2018 Somerset, New Jersey inspection. If we are unable to adequately address the FDA's concerns in a timely manner, the FDA may take further actions and our pipeline product approvals may be further delayed.

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.

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.
3.1	Restated Articles of Incorporation of Akorn, Inc. dated September 16, 2004, incorporated by reference to Exhibit 3.1 to Akorn, Inc.'s Registration Statement on Form S-1 filed on September 21, 2004 (Commission file No. 001-32360).
3.2	By-Laws of Akorn, Inc., as amended on April 24, 2017, incorporated by reference to Exhibit 3.1 to Akorn's report on Form 10-Q filed by Akorn, Inc. on May 4, 2017.
10.1	AMENDED AND RESTATED CREDIT AGREEMENT dated as of April 16, 2019 among AKORN, INC., with The Other Loan Parties, The Lenders Party, JPMORGAN CHASE BANK, N.A., as Administrative Agent, and BANK OF AMERICA, N.A., as Syndication Agent, incorporated by reference to Exhibit 10.1 to Akorn Inc.'s report on Form 8-K filed on April 17, 2019.
10.2	Standstill Agreement and First Amendment to Loan Agreement, dated as of May 6, 2019, by and among Akorn, Inc., certain of its subsidiaries, the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent, incorporated by reference to Exhibit 10.1 to Akorn, Inc's report on Form 8-K filed on May 7, 2019.
10.3†	Akorn, Inc. 2017 Omnibus Incentive Compensation Plan, as amended, incorporated by reference to Appendix A of the Akorn, Inc.'s Definitive Proxy Statement on Schedule 14A filed with the SEC on March 22, 2019.
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.INS	XBRL Instance Document - The instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	XBRL Taxonomy Extension Schema Document.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document.

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: August 2, 2019

EXHIBIT 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Douglas S. Boothe, 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.

Date: August 2, 2019

/s/ DOUGLAS S. BOOTHE

Douglas S. Boothe
President and Chief Executive Officer

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.

Date: August 2, 2019

/s/ DUANE A. PORTWOOD

Duane A. Portwood
Chief Financial Officer

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, 2019, 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: August 2, 2019

/s/ DOUGLAS S. BOOTHE

Douglas S. Boothe
President and 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, 2019, 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: August 2, 2019

/s/ DUANE A. PORTWOOD

Duane A. Portwood
Chief Financial Officer