

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

**UNITED STATES OF AMERICA,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **SANDRA KINCAID, a/k/a “Sandee,”** )  
 **RANDY KINCAID, and** )  
 **WENDI HENRY,** )  
 )  
 **Defendants.** )

**NO. 3:10-CR-160**  
**JUDGES** VARLAN/GUYTON

**INDICTMENT**

The Grand Jury charges:

**COUNT ONE**

At all times relevant to this Indictment:

**A. Introduction**

1. The Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, governs the manufacture, distribution, and dispensing of various medications in the United States. Included in this regulation are certain drugs, other substances, and their immediate precursors, which are defined as “controlled substances” under 21 U.S.C. § 802(6). These controlled substances are listed within one of five established Schedules, Schedules I-V. 21 U.S.C. § 802(6).

2. Placement of a controlled substance within a Schedule depends on the drug’s medical use, potential for abuse, and risk of dependence. 21 U.S.C. § 812(b).

a. For example, Schedule I controlled substances are those drugs, substances, and immediate precursors with a high potential for abuse, no accepted medical use in the United States, and no accepted safety for use under medical supervision. 21 U.S.C. § 812(b)(1).

b. Schedule II drugs have a currently accepted medical use, or a use with severe restrictions, but also have a high potential for abuse. This abuse may lead to severe psychological or physical dependence. 21 U.S.C. § 812(b)(2).

c. Schedule III drugs have a currently accepted medical use, but a potential for abuse, albeit a lesser potential than the drugs in Schedules I and II. This abuse may lead to moderate or low physical dependence, or a high psychological dependence. Conversely, Schedule V drugs have a currently accepted medical use and a low potential for abuse relative to those drugs in Schedule IV, but abuse may lead to limited physical dependence or psychological dependence. 21 U.S.C. § 812(b)(3).

d. Schedule IV and V drugs each have a currently accepted medical use and a low potential for abuse. This abuse may lead to limited physical dependence or psychological dependence. The potential for abuse and severity of dependence for drugs in Schedule V are lesser than those in Schedule IV.

3. In contrast to controlled substances, some non-controlled drugs, substances, and immediate precursors are also subject to federal regulation. These are classified as “prescription drugs” and must be prescribed by a doctor, either due to their toxicity, or to their potentially harmful effects if not used under the supervision of a licensed practitioner. 21 U.S.C. § 353(b).

4. Controlled substances and prescription drugs may be dispensed lawfully by means of a “prescription,” if that prescription is issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. 21 C.F.R. § 1306.04(a).

a. A “prescription” is an order for medication which is dispensed to or for an ultimate user. 21 C.F.R. § 1300.01(b)(35)

b. An “individual practitioner” is a physician, dentist, veterinarian, or other individual licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he or she practices, to dispense a controlled substance in the course of professional practice.

21 C.F.R. § 1300.01(b)(17)

c. No statutory definition of “legitimate medical purpose” and “usual course of professional practice” exists.

5. Under the CSA, therefore, “[a]n order purporting to be a prescription issued not in the usual course of professional treatment” is not a prescription. 21 C.F.R. § 1306.04(a). In other words, any person knowingly issuing a prescription for controlled substances without a legitimate medical purpose and not in the usual course of professional conduct is subject to the penalties provided for violations of the provisions of law relating to controlled substances. 21 C.F.R. § 1306.04(a).

6. Additionally, to be lawfully exempt from the prohibitions on distributing and dispensing, every practitioner who distributes or dispenses controlled substances must obtain a Drug Enforcement Administration Registration Number (“DEA Registration ”), which is issued by the Attorney General. 21 U.S.C. § 822(a)(2). The DEA Registration must be renewed every one to three years. 21 U.S.C. § 822(a)(2).

7. Accordingly, to issue lawful prescriptions for controlled substances, they must be (1) written by a practitioner registered with the DEA and (2) issued for a legitimate medical purpose in the course of the practitioner’s professional practice.

### **B. The Unlawful Agreement**

8. The Grand Jury charges that, beginning in or about May 2009, and continuing through on or about December 7, 2010, within the Eastern District of Tennessee, the defendants, **SANDRA KINCAID, RANDY KINCAID, and WENDI HENRY**, did combine, conspire, confederate, and agree with each other and others to commit violations of Title 21, United States Code, Section 841(a)(1), that is, to distribute, and to possess with intent to distribute, a quantity of a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance; a quantity of a mixture and substance containing a detectable amount of oxymorphone, a Schedule II controlled substance; a quantity of a mixture and substance containing a detectable amount of morphine, a Schedule II controlled substance; a quantity of a mixture and substance containing a detectable amount of zolpidem, a Schedule IV controlled substance, and a quantity of a mixture and substance containing alprazolam, a Schedule IV controlled substance, all in violation of Title 21, United States Code, Section 846.

### **C. Object of the Conspiracy**

9. It was the object of the conspiracy to generate large amounts of cash revenue through the unlawful sale of prescriptions for controlled substances.

### **D. Manner and Means**

10. It was part of the manner and means of the conspiracy that the defendants would and did knowingly open, use, operate, and maintain Breakthrough Pain Therapy Center, LLC (hereinafter "Breakthrough Pain"), for the purpose of unlawfully distributing and dispensing and causing the unlawful distribution and dispensing of controlled Substances. Breakthrough Pain was formed on

or about May 13, 2009, and **RANDY KINCAID** (hereinafter "**R. KINCAID**") is its registered agent.

11. Breakthrough Pain operates on a cash-only basis and does not accept medical insurance from its patients.

12. **SANDRA KINCAID** (hereinafter "**S. KINCAID**") is currently employed by **BREAKTHROUGH PAIN**, and at times relevant to this indictment, **WENDI HENRY** (hereinafter "**HENRY**") was employed by **BREAKTHROUGH PAIN**. **S. KINCAID** is **R. KINCAID**'s wife and **HENRY**'s mother. **S. KINCAID** is the primary operator of Breakthrough Pain.

13. Some employees of Breakthrough Pain have at times been paid approximately \$1000 in cash per day.

14. **S. KINCAID** personally examines patients of Breakthrough Pain and then fills out and/or signs prescriptions for controlled substances. **S. KINCAID** is not a practitioner under 21 U.S.C. § 802(21) or 21 C.F.R. § 1301.01(b)(17), is not registered under 21 U.S.C. § 822, and is not a licensed physician's assistant under Tennessee law.

15. The employees of Breakthrough Pain do not limit drug-seeking behavior despite many red flags. For example, many of the customers of Breakthrough Pain are from out of county, region, and state. Patients often congregate and "hang out" in the parking lot. The employees of Breakthrough Pain know that many of its "patients" sell or trade narcotics, and in fact employees have observed individuals "shooting up" controlled substances in the parking lot. This involves crushing a pill, dissolving it in water, and using a syringe to inject the medication directly into a vein. This method is contrary to medical practice and is commonly used by drug addicts.

16. **S. KINCAID and HENRY** also obtain controlled substances through Breakthrough Pain. They are each written new prescriptions for narcotics approximately every twenty-eight (28) days. In addition to **S. KINCAID** getting her own prescription filled, she also gets **HENRY's** filled. **S. KINCAID** takes possession of **HENRY's** prescription and keeps approximately 118 pills from **HENRY's** prescription. She then gives **HENRY** approximately thirty (30) pills and gives **HENRY's** boyfriend approximately twenty (20) pills.

17. Throughout the course of the conspiracy, **HENRY** and another person knowingly provided customers with falsified medical documents, including MRIs, doctor's reference forms, and doctor's examination notes. The individuals to whom these were provided used these falsified documents to visit Breakthrough Pain and obtain prescriptions for narcotics, including oxycodone, a Schedule II controlled substance, and alprazolam, a Schedule IV controlled substance. After filling the prescriptions for narcotics, each individual would give **HENRY** and/or the other person approximately twenty of the narcotic pills as payment for having received these forged documents.

18. **S. KINCAID and HENRY** maintain possession and control over all of Breakthrough Pain's "patient" files. Both **S. KINCAID** and **HENRY** regularly take several of the "patients" files home each day in order to prohibit the discovery of the fraudulent medical records therein.

19. In or about April 2010, **HENRY** arranged an appointment for an individual who, unbeknownst to her, was a Task Force Officer of the Drug Enforcement Administration acting in an undercover capacity. **HENRY** knew that the undercover officer was using fraudulent medical documents in order to obtain prescriptions for narcotics, including oxycodone. **HENRY** instructed the undercover officer as to how to perform during his appointment, including but not limited to giving him the name of a primary care physician to list on his new patient questionnaire. **HENRY**

also told the undercover officer that she would place his file in a safe location to protect it from discovery from anyone but her.

20. During two appointments in April and May 2010, respectively, the undercover officer obtained prescriptions for controlled substances, each time receiving two prescriptions for different strengths of oxycodone, a Schedule II controlled substance, and one prescription for alprazolam, a Schedule IV controlled substance. No physical examination was performed on either occasion, and his representation as to his pain was not questioned. The forged medical documents which he submitted in order to obtain controlled substances were not questioned or verified.

21. Throughout the course of the conspiracy, the defendants, with others known and unknown to the Grand Jury, knowingly:

- a. gave inadequate physical examinations or none at all;
- b. accepted false and/or outdated MRIs and other documentation of injuries;
- c. took no precautions against the misuse and diversion of controlled substances;
- d. failed to regulate the dosage of controlled substances prescribed;
- e. failed to require adequate documentation of physical injuries;
- f. accepted only cash for the services rendered (no insurance or other forms of payment were accepted);
- g. failed to act on information of addiction, drug abuse, drug selling, drug overdose, or other medical emergency conditions for patients seen at Breakthrough Pain when such information was provided to them;
- h. accepted controlled substances distributed to the clinic by end users in exchange for “new” prescriptions for controlled substances; and
- i. did not monitor drug-seeking behavior, that is, ignoring the fact that many of the customers were from out of the county, state, and region,

all in violation of Title 21, United States Code, Sections 846, 841(a)(1), 841(b)(1)(C), and 841(b)(2).

**FORFEITURE ALLEGATIONS**

22. The allegations contained in Count One are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853.

23. Pursuant to Title 21, United States Code, Section 853, upon conviction of an offense in violation of Title 21, United States Code, Section 846, the defendants, **SANDRA KINCAID, RANDY KINCAID, and WENDI HENRY**, shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense. The property to be forfeited includes, but is not limited to, the following:

a. Real Property

(1) Real property located at 3901 and 3903 Wildwood Road, Maryville, Tennessee, belonging to Randy B. Kincaid and wife, Sandra K. Kincaid, situated in District No. 12 of Blount County, Tennessee, and being more particularly described as follows:

BEGINNING at an iron pin in the Northern line of Wildwood Road, corner to Ronald Shields; thence with Shields N. 09-43 E. 506.73 feet to the edge of Little River and passing an iron pin 20 feet from the rivers edge; thence following the bank of Little River on a chord of S. 57-19 E. a chord distance of 395.43 feet to a 12 inch sycamore corner to Ferguson; thence with Ferguson S. 28-28 W. 54.11 feet to a 20 inch hackberry tree; thence S. 37-25 W. 73.12 feet to an iron pin; thence S. 17 E. 39.2 feet to a 40 inch elm tree; thence S. 19-34 W. 86.18 feet to an iron pin; thence S. 32-35 W. 56.68 feet to an iron pin; thence S. 59-46 W. 91.46 feet to an iron pin in the Northern line of Wildwood Road, N. 81-43 W. 223.50 feet to the point of BEGINNING and containing 3.169 acres, more or less as shown by survey of E. H. Pitts dated September 25, 1975.

THERE IS EXCEPTED from the above described property a tract of land containing 2.17 acres as conveyed by deed of record in Warranty Deed Book 583, page 488 in the Register's Office for Blount County, Tennessee. Tax Parcel ID: 038 - 063.02

For further reference see deed recorded on February 1, 2006 in deed book 2094, page 797 in the Blount County Register of Deeds.

(2) 2211 East Broadway Avenue, Maryville, TN 37804, belonging to Randy B. Kincaid and wife, Sandee K. Kincaid,

BEING a 0.66 acre tract entitled "Chiropractic Center" of record on plat or survey in Map File 2406A, dated February 6, 2007 recorded of record In the Register's Office of Blount County, Tennessee, a copy which is attached hereto for reference.

BEING the same property conveyed to Jeffrey L. Wilhoit and wife, Patricia D. Wilhoit by Deed from Joseph Scott Marsh and wife, Linda Sue Marsh dated June 30, 1993 and recorded in Book 551, Page 327 in the Register's Office for Blount County, Tennessee.

For further reference see deed recorded on October 20, 2010 in deed book 2277, page 994 in the Blount County Register of Deeds.

b. Vehicles

(1) One 2007 Mazda CX7, VIN JM3ER293670137546

(2) One 2005 Dodge Ram, VIN 1D7HU16D65J585200

(3) One 2005 Mercedes SL500, VIN WDBSK75F35F100153

c. Money Judgment

A personal money judgment in favor of the United States and against **SANDRA KINCAID, RANDY KINCAID, and WENDI HENRY**, jointly and severally, in an amount not less than \$970,580, representing the amount of money involved in the defendants' offenses in violation of Title 21, United States Code, Sections 846 and 841.

d. Bank Accounts

- (1) Contents of GreenBank account, account number xxxx660, in the name of Randy and Sandra Kincaid.
- (2) Contents of GreenBank account, account number xxxx713, in the name of Breakthrough Pain Therapy Center, LLC

24. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without

difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

**COUNT TWO**

**(Money Laundering Conspiracy - 18 U.S.C. § 1956(h))**

25. The allegations contained in Count One are incorporated herein by reference.

26. The Grand Jury further charges that, beginning in or about May 2009 and continuing through on or about December 7, 2010, in the Eastern District of Tennessee, the defendants, **SANDRA KINCAID and RANDY KINCAID**, did unlawfully and knowingly combine, conspire, confederate, and agree with each other and with other persons known and unknown to the Grand Jury

to commit certain offenses against the United States in violation of Title 18, United States Code, Section 1956 and 1957, to wit:

a. to knowingly conduct and attempt to conduct financial transactions affecting interstate commerce, which transactions involved the proceeds of specified unlawful activity, that is, the distribution of controlled substances, in violation of Title 21, United States Code, Section 841, in order to avoid a transaction reporting requirement under state or federal law, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(ii); and

b. to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is United States currency, such property having been derived from a specified unlawful activity, that is, the distribution of controlled substances, in violation of Title 18, United States Code, Section 1957.

#### **MANNER AND MEANS**

27. The manner and means used to accomplish the objectives of the conspiracy included, among others, the following:

a. The deposit of \$14,000 on January 12, 2010, in a manner intended to avoid transaction reporting requirements, to wit: a deposit of \$7,000 into Green Bank account number XXX4713 and a deposit of \$7,000 into Green Bank account number XXX0660, the full account numbers being known to the Grand Jury;

b. The deposit of \$26,000 on May 28, 2010, in a manner intended to avoid transaction reporting requirements, to wit: a deposit of \$7,000 into Green Bank account number XXX4713, a deposit of \$10,000 into Green Bank account number XXX0660, and a separate deposit

of \$9,000 into Green Bank account number XXX0660, the full account numbers being known to the Grand Jury;

c. The purchase by **RANDY KINCAID** of a 2005 Dodge Ram, VIN 1D7HU16D65J585200, on December 20, 2009, from Ideal Auto Sales, in Maryville, Tennessee, a financial institution as defined by 31 U.S.C. § 5312(a)(2)(T), for the sum of \$19,000;

d. The purchase by **SANDRA KINCAID** of a 2005 Mercedes SL500, VIN WDBSK75F35F100153, on March 8, 2010, from Ideal Auto Sales, in Maryville, Tennessee, a financial institution as defined by 31 U.S.C. § 5312(a)(2)(T), for the sum of \$35,000;

e. The remittance of \$17,624.71 by **RANDY KINCAID** to Alcoa Tenn Federal Credit Union in payment of the remaining loan amount secured by a 2007 Mazda CX7, all in violation of Title 18, United States Code, Section 1956(h).

#### **FORFEITURE ALLEGATIONS**

28. The allegations contained in Count Two of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 982(a)(1).

29. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of an offense in violation of Title 18, United States Code, Section 1956 or 1957, the defendants, **SANDRA KINCAID AND RANDY KINCAID**, shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property. The property to be forfeited includes, but is not limited to, the following:

a. Real Property

(1) Real property located at 3901 and 3903 Wildwood Road, Maryville, Tennessee, belonging to Randy B. Kincaid and wife, Sandra K. Kincaid, situated in District No. 12 of Blount County, Tennessee, and being more particularly described as follows:

BEGINNING at an iron pin in the Northern line of Wildwood Road, corner to Ronald Shields; thence with Shields N. 09-43 E. 506.73 feet to the edge of Little River and passing an iron pin 20 feet from the rivers edge; thence following the bank of Little River on a chord of S. 57-19 E. a chord distance of 395.43 feet to a 12 inch sycamore corner to Ferguson; thence with Ferguson S. 28-28 W. 54.11 feet to a 20 inch hackberry tree; thence S. 37-25 W. 73.12 feet to an iron pin; thence S. 17 E. 39.2 feet to a 40 inch elm tree; thence S. 19-34 W. 86.18 feet to an iron pin; thence S. 32-35 W. 56.68 feet to an iron pin; thence S. 59-46 W. 91.46 feet to an iron pin in the Northern line of Wildwood Road, N. 81-43 W. 223.50 feet to the point of BEGINNING and containing 3.169 acres, more or less as shown by survey of E. H. Pitts dated September 25, 1975.

THERE IS EXCEPTED from the above described property a tract of land containing 2.17 acres as conveyed by deed of record in Warranty Deed Book 583, page 488 in the Register's Office for Blount County, Tennessee. Tax Parcel ID: 038 - 063.02

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(2) 2211 East Broadway Avenue, Maryville, TN 37804, belonging to Randy B. Kincaid and wife, Sandee K. Kincaid,

BEING a 0.66 acre tract entitled "Chiropractic Center" of record on plat or survey in Map File 2406A, dated February 6, 2007 recorded of record in the Register's Office of Blount County, Tennessee, a copy which is attached hereto for reference.

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b. Vehicles

- (1) One 2007 Mazda CX7, VIN JM3ER293670137546
- (2) One 2005 Dodge Ram, VIN 1D7HU16D65J585200
- (3) One 2005 Mercedes SL500, VIN WDBSK75F35F100153

c. Money Judgment

A personal money judgment in favor of the United States and against **SANDRA KINCAID and RANDY KINCAID**, jointly and severally, in an amount not less than \$581,540, representing the amount of money involved in the defendants' offenses in violation of Title 18, United States Code, Sections 1956 and 1957.

d. Bank Accounts

- (1) Contents of GreenBank account, account number xxxx660, in the name of Randy and Sandra Kincaid.
- (2) Contents of GreenBank account, account number xxxx713, in the name of Breakthrough Pain Therapy Center, LLC

30. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value;
- e. has been commingled with other property which cannot be divided without

difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

**COUNTS THREE THROUGH TEN**

**(Structuring - 31 U.S.C. §§ 5324(a)(1) and 5324(d) and 31 C.F.R. Part 103)**

31. The allegations contained in Count One of this indictment are incorporated herein by reference.

32. The Grand Jury further charges that on or about the dates set forth below, in the Eastern District of Tennessee, the defendant, **RANDY KINCAID**, as named below in each of Counts Three through Ten, knowingly and for the purpose of evading the reporting requirements of section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, did cause and attempt to cause a domestic financial institution to fail to file a report required under section 5313(a) of Title 31, and any regulation prescribed under any such section, and as part of a pattern of illegal activity involving more than \$100,000 in a twelve-month period:

<i>Count</i>	<i>Defendant</i>	<i>Date</i>	<i>Description</i>
3	Randy Kincaid	January 12, 2010	Deposit of \$14,000, consisting of \$7,000 deposited to Green Bank account number XXX4713 on January 12 and \$7,000 deposited to Green Bank account number XXX0660 on January 12.
4	Randy Kincaid	May 19, 2010	Deposit of \$17,000, consisting of \$6,000 deposited to Green Bank account number XXX4713 on May 19, \$5,000 deposited to Green Bank account number XXX4713 on May 19, and \$6,000 deposited to Green Bank account number XXX0660 on May 19.

5	Randy Kincaid	May 28, 2010	Deposit of \$26,000, consisting of \$7,000 deposited to Green Bank account number XXX4713 on May 28, \$10,000 deposited to Green Bank account number XXX0660 on May 28, and \$9,000 deposited to Green Bank account number XXX0660 on May 28.
6	Randy Kincaid	June 2, 2010	Deposit of \$30,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on June 2, \$7,000 deposited to Green Bank account number XXX0660 on June 2, \$5,000 deposited to Green Bank account number XXX4713 on June 2, and \$10,000 deposited to Green Bank account number XXX0660 on June 2.
7	Randy Kincaid	June 9, 2010	Deposit of \$11,000, consisting of \$7,000 deposited to Green Bank account number XXX4713 on June 9 and \$4,000 deposited to Green Bank account number XXX0660 on June 9.
8	Randy Kincaid	July 2, 2010	Deposit of \$14,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on July 2 and \$6,000 deposited to Green Bank account number XXX0660 on July 2.
9	Randy Kincaid	August 5, 2010	Deposit of \$11,000, consisting of \$6,000 deposited to Green Bank account number XXX4713 on August 5 and \$5,000 deposited to Green Bank account number XXX0660 on August 5.
10	Randy Kincaid	August 17, 2010	Deposit of \$12,000, consisting of \$6,000 deposited to Green Bank account number XXX4713 on August 17 and \$6,000 deposited to Green Bank account number XXX4713 on August 17.

All in violation of Title 31, United States Code, Sections 5324(a)(1) and 5324(d), and Title 31, Code of Federal Regulations, Part 103.

**COUNTS ELEVEN THROUGH TWENTY-FIVE**

**(Structuring - 31 U.S.C. §§ 5324(a)(3) and 5324(d) and 31 C.F.R. Part 103)**

33. The allegations in Count One are incorporated by reference herein.

34. The Grand Jury further charges that on or about the dates set forth below, in the Eastern District of Tennessee, the defendant, **RANDY KINCAID**, as named below in each of Counts Eleven through Twenty-Five, knowingly and for the purpose of evading the reporting requirements of section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, did structure, assist in structuring, attempt to structure and assist in structuring, the following transactions with a domestic financial institutions, and did so while violating another law of the United States, and as part of a pattern of illegal activity involving more than \$100,000 in a twelve-month period:

<i>Count</i>	<i>Defendants</i>	<i>Dates</i>	<i>Description</i>
11	Randy Kincaid	January 5, 2010 - January 6, 2010	Deposit of \$13,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on January 5, and \$5,000 deposited to Green Bank account number XXX4713 on January 6.
12	Randy Kincaid	January 19, 2010 - January 20, 2010	Deposit of \$14,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on January 19, \$4,000 deposited to Green Bank account number XXX4713 on January 20, and \$2,000 deposited to Green Bank account number XXX0660 on January 20.

13	Randy Kincaid	January 27, 2010 - January 29, 2010	Deposit of \$22,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on January 27, \$6,000 deposited to Green Bank account number XXX4713 on January 28, \$2,000 deposited to Green Bank account number XXX0660 on January 28, \$4,000 deposited to Green Bank account number XXX4713 on January 29, and \$2,000 deposited to Green Bank account number XXX4713 on January 29.
14	Randy Kincaid	February 3, 2010 - February 5, 2010	Deposit of \$19,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on February 3, \$7,000 deposited to Green Bank account number XXX4713 on February 4, and \$4,000 deposited to Green Bank account number XXX0660 on February 5.
15	Randy Kincaid	April 1, 2010 - April 2, 2010	Deposit of \$14,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on April 1, \$3,000 deposited to Green Bank account number XXX4713 on April 2, and \$3,000 deposited to Green Bank account number XXX0660 on April 2.
16	Randy Kincaid	April 21, 2010 - April 22, 2010	Deposit of \$14,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on April 21 and \$6,000 deposited to Green Bank account number XXX0660 on April 22.

17	Randy Kincaid	April 27, 2010 - April 29, 2010	Deposit of \$19,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on April 27, \$6,000 deposited to Green Bank account number XXX4713 on April 28, \$3,000 deposited to Green Bank account number XXX4713 on April 29, and \$2,000 deposited to Green Bank account number XXX0660 on April 29.
18	Randy Kincaid	May 4, 2010 - May 5, 2010	Deposit of \$14,000, consisting of \$8,000 deposited to Green Bank account number XXX4713 on May 4 and \$6,000 deposited to Green Bank account number XXX4713 on May 5.
19	Randy Kincaid	May 11, 2010 - May 13, 2010	Deposit of \$21,000, consisting of \$5,000 deposited to Green Bank account number XXX4713 on May 11, \$8,000 deposited to Green Bank account number XXX4713 on May 12, and \$8,000 deposited to Green Bank account number XXX4713 on May 13.
20	Randy Kincaid	June 3, 2010 - June 4, 2010	Deposit of \$15,000, consisting of \$5,000 deposited to Green Bank account number XXX4713 on June 3 and \$10,000 deposited to Green Bank account number XXX0660 on June 4.
21	Randy Kincaid	June 24, 2010 - June 25, 2010	Deposit of \$13,000, consisting of \$5,000 deposited to Green Bank account number XXX4713 on June 24, \$6,000 deposited to Green Bank account number XXX4713 on June 25, and \$2,000 deposited to Green Bank account number XXX0660 on June 25.
22	Randy Kincaid	July 8, 2010 - July 9, 2010	Deposit of \$10,020, consisting of \$5,000 deposited to Green Bank account number XXX4713 on July 8 and \$5,020 deposited to Green Bank account number XXX4713 on July 9.

23	Randy Kincaid	July 13, 2010- July 15,2010	Deposit of \$17,000, consisting of \$5,000 deposited to Green Bank account number XXX4713 on July 13, \$7,000 deposited to Green Bank account number XXX4713 on July 14, and \$5,000 deposited to Green Bank account number XXX4713 on July 15.
24	Randy Kincaid	July 21, 2010 - July 22, 2010	Deposit of \$20,000, consisting of \$6,000 deposited to Green Bank account number XXX4713 on July 21, \$5,000 deposited to Green Bank account number XXX4713 on July 21, and \$9,000 deposited to Green Bank account number XXX0660 on July 22.
25	Randy Kincaid	July 28, 2010 - July 30, 2010	Deposit of \$25,000, consisting of \$8,000 deposited to Green Bank account number XXX0660 on July 28, \$9,000 deposited to Green Bank account number XXX4713 on July 29, and \$8,000 deposited to Green Bank account number XXX4713 on July 30.

All in violation of Title 31, United States Code, Sections 5324(a)(3) and 5324(d), and Title 31, Code of Federal Regulations, Part 103.

### FORFEITURE ALLEGATIONS

35. The allegations contained in Counts Three through Twenty-Five of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 31, United States Code, Section 5317.

36. Pursuant to Title 31, United States Code, Section 5317, upon conviction of an offense in violation of Title 31, United States Code, Section 5324, the defendant, **RANDY KINCAID**, shall forfeit to the United States of America all property, real or personal, involved in the offenses and any property traceable to such property, including but not limited to the following:

a. Real Property

(1) Real property located at 3901 and 3903 Wildwood Road, Maryville, Tennessee, belonging to Randy B. Kincaid and wife, Sandra K. Kincaid, situated in District No. 12 of Blount County, Tennessee, and being more particularly described as follows:

BEGINNING at an iron pin in the Northern line of Wildwood Road, corner to Ronald Shields; thence with Shields N. 09-43 E. 506.73 feet to the edge of Little River and passing an iron pin 20 feet from the rivers edge; thence following the bank of Little River on a chord of S. 57-19 E. a chord distance of 395.43 feet to a 12 inch sycamore corner to Ferguson; thence with Ferguson S. 28-28 W. 54.11 feet to a 20 inch hackberry tree; thence S. 37-25 W. 73.12 feet to an iron pin; thence S. 17 E. 39.2 feet to a 40 inch elm tree; thence S. 19-34 W. 86.18 feet to an iron pin; thence S. 32-35 W. 56.68 feet to an iron pin; thence S. 59-46 W. 91.46 feet to an iron pin in the Northern line of Wildwood Road, N. 81-43 W. 223.50 feet to the point of BEGINNING and containing 3.169 acres, more or less as shown by survey of E. H. Pitts dated September 25, 1975.

THERE IS EXCEPTED from the above described property a tract of land containing 2.17 acres as conveyed by deed of record in Warranty Deed Book 583, page 488 in the Register's Office for Blount County, Tennessee. Tax Parcel ID: 038 - 063.02

For further reference see deed recorded on February 1, 2006 in deed book 2094, page 797 in the Blount County Register of Deeds.

(2) 2211 East Broadway Avenue, Maryville, TN 37804, belonging to Randy B. Kincaid and wife, Sandee K. Kincaid,

BEING a 0.66 acre tract entitled "Chiropractic Center" of record on plat or survey in Map File 2406A, dated February 6, 2007 recorded of record In the Register's Office of Blount County, Tennessee, a copy which is attached hereto for reference.

BEING the same property conveyed to Jeffrey L. Wilhoit and wife, Patricia D. Wilhoit by Deed from Joseph Scott Marsh and wife, Linda Sue Marsh dated June 30, 1993 and recorded in Book 551, Page 327 in the Register's Office for Blount County, Tennessee.

For further reference see deed recorded on October 20, 2010 in deed book 2277, page 994 in the Blount County Register of Deeds.

b. Vehicles

- (1) One 2007 Mazda CX7, VIN JM3ER293670137546
- (2) One 2005 Dodge Ram, VIN 1D7HU16D65J585200
- (3) One 2005 Mercedes SL500, VIN WDBSK75F35F100153

c. Money Judgment

A personal money judgment in favor of the United States and against the defendants, **RANDY KINCAID**, jointly and severally, in the amount of not less than \$581,540, representing the sum of money involved in or traceable to the offenses charged in Counts Three through Twenty-Five.

d. Bank Accounts

- (1) Contents of GreenBank account, account number xxxx660, in the name of Randy and Sandra Kincaid.
- (2) Contents of GreenBank account, account number xxxx713, in the name of Breakthrough Pain Therapy Center, LLC

37. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without

difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 31, United States Code, Section 5317(c) and by Title 28, United States Code, Section 2461(c).

A TRUE BILL:

s/ Grand Jury Foreperson  
GRAND JURY FOREPERSON

WILLIAM C. KILLIAN  
UNITED STATES ATTORNEY

s/ Alexandra Hui  
ALEXANDRA HUI  
Assistant United States Attorney

s/ Frank M. Dale, Jr.  
FRANK M. DALE, JR.  
Assistant United States Attorney