

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	File No.: EB-TCD-15-00020134
	)	NAL/Acct. No.: 201632170007
	)	
Steven Blumenstock	)	FRN: 0025786195
Gary Braver	)	FRN: 0025786179

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: August 2, 2016**

**Released: August 2, 2016**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. Consumers rely on caller ID information to make decisions about what calls to accept, ignore, or block. The Truth in Caller ID Act of 2009 and the Commission's rules prohibit any individual from falsifying or faking his or her phone number with the intent to defraud, cause harm, or wrongfully obtain anything of value. This prohibited practice is better known as spoofing. Increasingly, bad actors use inexpensive third-party services to spoof the caller ID information of businesses, government facilities, and other legitimate sources in order to gain unauthorized access to consumer information, place false emergency calls to law enforcement (otherwise known as "swatting"), and facilitate other criminal activities. Congress and the Commission recognized that criminals also use spoofing to trick victims into answering calls for the purposes of harassment and stalking. Accurate caller ID information is therefore a vital tool that consumers use to protect their privacy, avoid fraud, and ensure peace of mind. Spoofing caller ID information for the purposes of harassment and stalking represents an egregious violation of federal law and the Commission is committed to taking swift enforcement action against those who engage in such malicious misconduct.

2. Today, we propose penalties of \$25,000 each against Steven Blumenstock and Gary Braver for apparently causing the display of misleading or inaccurate caller ID information with the intent to cause harm. Specifically, the evidence shows that over the course of four months, Mr. Blumenstock and Mr. Braver made 31 spoofed telephone calls to Mr. Braver's ex-wife as part of a campaign of harassment and stalking of Mr. Braver's ex-wife. We therefore find that Mr. Blumenstock and Mr. Braver apparently violated the Truth in Caller ID Act of 2009, as codified in Section 227(e) of the Communications Act of 1934, as amended (Act),<sup>1</sup> and Section 64.1604 of the Commission's rules (Rules).<sup>2</sup>

**II. BACKGROUND**

**A. The Truth in Caller ID Act of 2009**

3. The Truth in Caller ID Act of 2009 outlaws "caus[ing] any caller identification service to knowingly transmit misleading or inaccurate caller identification information with the intent to defraud, cause harm, or wrongfully obtain anything of value."<sup>3</sup> At the time of the Truth in Caller ID Act's

<sup>1</sup> 47 U.S.C. § 227(e).

<sup>2</sup> 47 CFR § 64.1604.

<sup>3</sup> Truth in Caller ID Act of 2009, Pub. L. No. 111-331, *codified at* 47 U.S.C. § 227(e). Congress narrowly tailored the statutory language to permit legitimate blocking of the transmission of caller ID information. For example, the

passage, Congress observed that consumers greatly value accurate, reliable caller ID information to help them decide whether to answer a phone call and whether to trust the caller on the other end of the line.<sup>4</sup> Moreover, Congress noted that consumers' widespread expectation is that any information that appears on caller ID represents the true originating number of the person or entity making the call.<sup>5</sup>

4. In the years leading up to the Truth in Caller ID Act's passage, consumers, telephone carriers, the Federal Communications Commission (Commission or FCC), and other law enforcement authorities observed a growing, troubling trend—deliberate falsification of caller ID information as part of criminal frauds and other harmful activities posing threats to the pocketbooks, privacy, and peace of mind of millions of American consumers.<sup>6</sup> Congress was especially concerned by cases where criminals used spoofed caller ID information for the purposes of defrauding consumers<sup>7</sup> or wrongfully obtaining something of value from the called persons.<sup>8</sup>

5. The use of falsified caller ID information to facilitate fraud and identity theft were not Congress' only worries regarding spoofing. Congress was equally alarmed by use of spoofed caller ID information to cause physical or emotional harm to victims, or endanger public safety. In one such instance recounted in the legislative record, a woman in New York called a pregnant woman whom she viewed as her romantic rival.<sup>9</sup> Spoofing the phone number of the woman's pharmacist, she tricked the woman into taking a drug used to cause an abortion.<sup>10</sup> Congress also anticipated that caller ID spoofing could result in harm in cases of stalking and harassment, allowing stalkers to spoof caller ID information of a trusted source to trick victims into answering the telephone, giving out personal information, or even revealing their current whereabouts.<sup>11</sup> As the Truth in Caller ID Act's legislative history and the prohibition on "caus[ing] harm" in the statute make clear, Congress explicitly outlawed the use of falsified caller ID information for the purposes of harassing and stalking another person. Accordingly, when the FCC adopted rules implementing the Truth in Caller ID Act, it stated that harm "is a broad concept that encompasses . . . emotional harm, includ[ing] stalking, harassment, and the violation of protective and

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law does not outlaw domestic abuse shelters from altering their caller ID information when their clients are required to communicate with the abuser. *See* 156 CONG. REC. H8376 (2010). Nor does it prohibit, for example, law enforcement officials from disguising their telephone numbers during an investigation. *Id.* at H8378.

<sup>4</sup> 155 CONG. REC. S170-02, S173 (2009).

<sup>5</sup> 156 CONG. REC. H2522, H2524 (explaining ". . . if you see a caller ID and you see it has a phone number, most people think that it's ironclad that that's the actual phone number that's calling.").

<sup>6</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Junk Fax Prevention Act of 2005*, Report and Order and Third Order on Reconsideration, 21 FCC Rcd 3787, 3805 n. 122 (2006) ("Verizon alleges that there is a growing trend by fax broadcasters to engage in 'caller ID spoofing,' whereby they manipulate their caller ID data to disguise the true telephone number from which the calls have been placed . . . we will monitor caller ID spoofing to determine whether action is warranted to address the practice in the future.").

<sup>7</sup> In one example cited by Congress, a fraudster used false caller ID information to make calls appear to originate from a county courthouse; the fraudster called victims, claimed they had missed a court date, and then demanded that the victims provide credit card information for payment of a nonexistent fine. *See* 156 CONG. REC. H8376, H8379 (2010).

<sup>8</sup> In another example cited by Congress, identity thieves bought several stolen credit card numbers, then set up caller ID information to make it look like their calls actually originated from the credit card holders' phone lines. The thieves then called Western Union and used the stolen credit card numbers to order cash transfers, which the thieves then picked up. *See* 155 CONG. REC. S170-02, S173 (2009).

<sup>9</sup> 156 CONG. REC. H8376, H8378 (2010).

<sup>10</sup> *Id.*

<sup>11</sup> 155 CONG. REC. S170, S173 (2009).

restraining orders.”<sup>12</sup> The Commission further stated that spoofing “for the purposes of harassing or stalking someone [is] an egregious violation of the Act,” and warned that it intended to pursue spoofing-related enforcement “vigorously, including against those who engage in such malicious practices.”<sup>13</sup>

### **B. Complaint of Robin Braver and FCC Investigation into Harmful, Spoofed Calls**

6. On September 11, 2015, the National Network to End Domestic Violence (NNEDV) contacted FCC staff regarding spoofed calls received by one of its clients.<sup>14</sup> Specifically, NNEDV explained that someone was “misusing spoofing services to stalk and harass” Ms. Robin Braver.<sup>15</sup> After speaking to FCC staff about the situation, NNEDV referred Ms. Braver to the FCC’s Enforcement Bureau (Bureau). In addition to reaching out to Bureau staff, Ms. Braver also filed a complaint with the Nassau County Police Department in New York. Based on the serious nature of the violations alleged in Ms. Braver’s complaint, Bureau staff opened an investigation.<sup>16</sup>

7. During the Bureau’s investigation, Ms. Braver provided information and call logs she collected over the course of several months (from May 2015 to September 2015)<sup>17</sup> documenting a sustained campaign of harassment and stalking through spoofed calls she received. During this period, Ms. Braver received 31 harassing phone calls spoofing the caller ID information of various sources, including local correctional facilities, her child’s school, and even her parents’ home.<sup>18</sup> On some days, Ms. Braver would receive multiple harassing calls from spoofed numbers, sometimes within minutes of each other.<sup>19</sup> Ms. Braver stated that the caller used a voice modulator to disguise his voice during the calls, and described the caller’s voice as menacing and the calls themselves as harassing in nature.<sup>20</sup> She also stated that the caller made references to specific, personal information regarding Ms. Braver’s life and schedule that were not common knowledge, such as her divorce and child custody proceedings.<sup>21</sup>

8. During the period Ms. Braver received the harmful, spoofed calls, she had a court-ordered Temporary Order of Protection against her ex-husband.<sup>22</sup> The Order of Protection compelled Mr.

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<sup>12</sup> *Rules and Regulations Implementing the Truth in Caller ID Act of 2009*, WC Docket No. 11-39, Report and Order, 26 FCC Rcd 9114, 9122-23, para. 22 (2011) (Truth in Caller ID Order).

<sup>13</sup> *Id.*

<sup>14</sup> Email from Kaofeng Lee, Deputy Director, Safety Net Project, National Network to End Domestic Violence, to Nicole McGinnis, Associate Chief, Public Safety & Homeland Security Bureau (Sept. 11, 2015, 13:49pm EDT).

<sup>15</sup> *Id.*

<sup>16</sup> FCC staff accepted the information and documentation provided by Ms. Braver as an informal request for Commission action under Section 1.41 of the Rules. 47 CFR § 1.41.

<sup>17</sup> The victim continued receiving harassing, spoofed calls while the Bureau’s investigation was underway. The victim received the last such call of which the Bureau is aware on January 20, 2016. Shortly thereafter, on February 6, 2016, Ms. Braver filed the complaint with the Nassau County Police Department.

<sup>18</sup> Affidavit of Robin Braver, Apr. 14, 2016 (on file in File No. EB-TCD-15-00020134) at 2-3 (Robin Braver Affidavit). The Attachment lists the spoofed calls received by Ms. Braver as well as the true owner of the spoofed number.

<sup>19</sup> *See* Attachment.

<sup>20</sup> Robin Braver Affidavit at 1-4.

<sup>21</sup> *Id.* at 1, 3-4.

<sup>22</sup> Order of Protection, New York Family Court, County of Nassau, Order No. 2015-002263, Docket No. O-04361-15 (May 4, 2015).

Braver to “refrain from assault, stalking, harassment, aggravated harassment, menacing, . . . intimidation, threats, . . . or any criminal offense” against Ms. Braver and her daughter.<sup>23</sup>

9. Ms. Braver provided the Bureau with recordings of some of the spoofed phone calls she received. Many of the initial calls spoofed the numbers of local jails and prisons and made lurid suggestions that Ms. Braver would be “joining” the inmates there.<sup>24</sup> For example, on May 19, 2015, and August 3, 2015, Ms. Braver received calls spoofing the caller ID information of Sing Sing Correctional Facility, a maximum security prison operated by the State of New York. Using the voice modulator feature of the spoofing service, the caller told Ms. Braver that “We look forward to you joining us here” or “We are waiting for you.”<sup>25</sup> A pair of spoofed calls received by Ms. Braver on July 23, 2015, displaying the caller ID information of the New York City Department of Corrections, were even more explicit: “We have a cell here for you.”<sup>26</sup>

10. Over time, the spoofed calls increased in frequency and the messages referred to matters specific to Ms. Braver, her minor child, and/or Mr. Braver.<sup>27</sup> For example, on August 12, 2015, Ms. Braver received calls spoofing the home landline number of Ms. Braver’s parents.<sup>28</sup> On September 8, 2015 and September 24, 2015, Ms. Braver received harassing calls spoofing the phone number of the school district where Ms. Braver’s minor child attends school.<sup>29</sup> On September 7, 2015, she received a spoofed call asking about how she spent her day with her daughter.<sup>30</sup>

11. Ms. Braver complained to Bureau staff and local law enforcement that she felt harassed and intimidated by the repeated menacing calls. She also stated to Bureau investigators that the spoofed phone numbers selected—in particular calls from local prisons and the district where her minor child attends school—were deeply upsetting and disturbing to her.<sup>31</sup> Bureau investigators reviewed recordings of some of the calls that Ms. Braver received, which supported her claims.

12. Ms. Braver told Bureau staff that she believed the calls originated from her former husband, Gary Braver, and one of his work colleagues, Steven Blumenstock.<sup>32</sup> Ms. Braver explained that she used a third-party “unmasking” service for some of the spoofed calls she received to reveal the true caller ID

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<sup>23</sup> *Id.*

<sup>24</sup> See Robin Braver Affidavit, *id.* at 1 (“Beginning May 19, 2015, I began receiving spoofed calls . . . . The caller pretends to call from different New York correctional facilities in a spooky voice saying they are looking forward to me joining them to stay there.”).

<sup>25</sup> See *id.* at 1-2.

<sup>26</sup> See *id.* at 1.

<sup>27</sup> See *id.* (“As time went on, the calls occurred more and more frequently and all were related to activities between me and my daughter and/or Gary Braver.”).

<sup>28</sup> See *id.* at 2.

<sup>29</sup> See *id.* As noted above, Ms. Braver continued to receive harassing calls from spoofed numbers after the Bureau began its investigation. *Supra* note 17. For example, on November 11, 2015, Ms. Braver received multiple calls spoofing the number of the New York Family Court Clerk’s Office, where the Bravers have ongoing child custody proceedings. According to Ms. Braver, the caller used the voice modulator and referenced upcoming court dates: “Don’t forget to bring your tax returns tomorrow to court,” “Don’t forget about court tomorrow and bring your tax return. Don’t forget.” See Robin Braver Affidavit at 3. The timing of the calls appeared to have been specifically orchestrated by Mr. Braver, as he and Ms. Braver were scheduled to appear in court regarding child support on the following day. The Bureau may, in the future, pursue a separate action against Mr. Braver and Mr. Blumenstock for these additional apparent violations.

<sup>30</sup> See Attachment (call received September 7, 2015, asks Ms. Braver “how’s your mother/daughter day going?”).

<sup>31</sup> See *id.* Robin Braver Affidavit at 3-4.

<sup>32</sup> *Id.* at 4.

information of the caller.<sup>33</sup> For each of the calls that Ms. Braver unmasked, the true caller ID information was the wireless phone number of Mr. Blumenstock.<sup>34</sup>

13. Bureau staff subpoenaed call records for Mr. Blumenstock's wireless phone and compared the calling records to the log of spoofed calls that the victim provided to Bureau investigators. The call records obtained by the Bureau show that on 31 occasions from May 2015 to September 2015, Mr. Blumenstock used his wireless phone to dial an access number belonging to spoofing service provider CallerIDFaker.com.<sup>35</sup> Call records from Ms. Braver's carrier show that each time Mr. Blumenstock dialed the CallerIDFaker.com access number, Ms. Braver received a simultaneous spoofed call.<sup>36</sup> CallerIDFaker.com's parent company, BSD Telecom, confirmed in response to an FCC subpoena that Mr. Blumenstock used its service to place the calls to Ms. Braver.<sup>37</sup> On February 16, 2016, in response to the criminal complaint that Ms. Braver filed, Nassau County Police arrested Mr. Blumenstock<sup>38</sup> and charged him with one count of stalking in the third degree<sup>39</sup> and one count of aggravated harassment in the second degree.<sup>40</sup>

14. Although Mr. Blumenstock purportedly dialed all of the spoofed calls, Ms. Braver alleged that he made the calls at the request and with the involvement of Ms. Braver's ex-husband, Gary Braver. Ms. Braver provided a sworn affidavit stating that she has no independent relationship with Mr. Blumenstock.<sup>41</sup> Ms. Braver also attested that, to the best of her knowledge, she has never called Mr. Blumenstock.<sup>42</sup> Independent analysis of the call records of Mr. Blumenstock and Ms. Braver confirms that Ms. Braver did not call Mr. Blumenstock at any time during the period she received the harmful, spoofed calls. In addition, according to Ms. Braver, the caller who made the harassing calls frequently referenced

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<sup>33</sup> *Id.* at 2-3.

<sup>34</sup> *Id.* at 3-4.

<sup>35</sup> The CallerIDFaker.com service allows customers to falsify their caller ID information. See CallerIDFaker.com website, available at <http://www.calleridfaker.com> (last visited June 3, 2016) (voiceover in embedded video on front page of the website states "Ever want to be someone else? With CallerIDFaker, you can be whoever you want to be."). CallerIDFaker.com customers dial one of several ten digit numbers belonging to the service and enter a customer access code. After entering the access code, the customer is prompted to enter the number of the person (s)he wants to call and the false caller ID information (s)he wants to display on the recipient's phone. The service provides the caller with the option to use a voice modulator to disguise his or her voice. This process is described in detail in a YouTube user video documenting how the CallerIDFaker.com service works. See CallerIDFaker Tutorial, available at <https://www.youtube.com/watch?v=CAXEL3hAk8Y> (last visited Jul. 26, 2016). We note that the Commission declined to hold third-party spoofing service providers like CallerIDFaker.com liable for harassing calls made by their customers, unless the providers "knowingly manipulated the caller identification information in order to defraud, cause harm, or wrongfully obtain anything of value." Truth in Caller ID Order, 26 FCC Rcd at 9121-22, para. 20. See *id.* at 9125, para. 25 ("[T]he transmission of incorrect caller ID information . . . without the requisite intent to defraud, cause harm or wrongfully obtain anything of value does not violate the Truth in Caller ID Act or our rules implementing the Truth in Caller ID Act."). We do not opine in this Notice of Apparent Liability for Forfeiture whether CallerIDFaker.com or its parent company, BSD Telecom, might also be liable for the spoofed calls placed by Mr. Blumenstock and Mr. Braver, or its other customers.

<sup>36</sup> See Attachment.

<sup>37</sup> See Response of BSD Telecom of May 20, 2016 (on file in File No. EB-TCD-15-00020134).

<sup>38</sup> Nassau County, New York, First District Court, Case No. 2016NA004625, Arrest No. R300448.

<sup>39</sup> New York Penal Law § 120.50.

<sup>40</sup> New York Penal Law § 240.30. The criminal case against Mr. Blumenstock remains ongoing.

<sup>41</sup> See Robin Braver Affidavit at 4 ("I have no relationship with Steven Blumenstock. I do not mix with him socially or professionally. Other than our shared connection with Gary Braver, we have nothing in common.").

<sup>42</sup> *Id.*

non-public information about events involving the Bravers' ongoing child custody proceedings that Mr. Blumenstock likely would not have known unless Mr. Braver revealed it to him.<sup>43</sup> Ms. Braver stated that Mr. Blumenstock and Mr. Braver are close friends and work colleagues.<sup>44</sup> A review of the phone records for both Mr. Blumenstock and Mr. Braver shows a pattern of frequent, sometimes daily, communication between the two.<sup>45</sup> The evidence also shows that Mr. Braver was *directly* involved in at least some of the harassing calls that Ms. Braver received. For example, on September 8, 2015, Mr. Braver used his wireless phone to call Mr. Blumenstock's landline phone at his home. Moments later, while still on the line with Mr. Braver, Mr. Blumenstock dialed the CallerIDFaker.com access numbers. Ms. Braver then received harmful, spoofed calls originating from the CallerIDFaker.com service.

### III. DISCUSSION

15. Section 227(e) of the Act and Section 64.1604 of the Rules prohibit any person within the United States, in connection with any telecommunications service or IP-enabled voice service, to knowingly cause, directly or indirectly, any caller ID service to transmit or display misleading or inaccurate caller ID information with the intent to defraud, cause harm, or wrongfully obtain anything of value.<sup>46</sup> We find that Mr. Blumenstock and Mr. Braver apparently violated Section 227(e) of the Act and Section 64.1604 of the Rules by spoofing caller ID information for the purpose of conducting a harmful campaign of harassment and stalking against Ms. Braver.

#### A. Blumenstock and Braver Made Spoofed Calls to Robin Braver with the Intent to Cause Her Harm

16. Record of Calls to Victim. As described in detail above, the Bureau's evidence shows that Mr. Blumenstock used the CallerIDFaker.com spoofing service for the purposes of making harmful calls to Ms. Braver.<sup>47</sup> On 31 occasions from May 2015 to September 2015, Mr. Blumenstock used his wireless phone to dial a CallerIDFaker.com access number.<sup>48</sup> Call records from Ms. Braver's carrier show that each time Mr. Blumenstock dialed the CallerIDFaker.com access number, Ms. Braver received a simultaneous spoofed call.<sup>49</sup> CallerIDFaker.com's parent company likewise confirmed that Mr. Blumenstock used its service to place the calls to Ms. Braver, and Mr. Blumenstock was later arrested and charged with stalking and aggravated harassment.<sup>50</sup>

17. In addition, as stated above, the evidence shows that Mr. Blumenstock engaged in the campaign of harassment and stalking at the request and with the involvement of Ms. Braver's ex-husband, Gary Braver.<sup>51</sup> Ms. Braver had no prior relationship with Mr. Blumenstock and the harassing calls she received frequently referenced personal information known to Mr. Braver.<sup>52</sup> The fact that Mr. Braver purportedly did not dial the spoofed calls himself does not absolve him of liability for the harassment and stalking of his ex-wife. Federal law prohibits "directly or indirectly" causing the transmission or display of

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<sup>43</sup> See *supra* para. 7.

<sup>44</sup> See Robin Braver Affidavit at 4.

<sup>45</sup> See 2015 Phone Records of Steven Blumenstock and Gary Braver (on file in File No. EB-TCD-15-00020134).

<sup>46</sup> 47 U.S.C. § 227(e); 47 CFR § 64.1604.

<sup>47</sup> See *supra* para. 13.

<sup>48</sup> See *id.*

<sup>49</sup> See *id.*

<sup>50</sup> See *id.*

<sup>51</sup> See *supra* para. 14.

<sup>52</sup> See *id.*

spoofed caller ID information.<sup>53</sup> The Commission specifically prohibited “indirect” unlawful spoofing “to foreclose those acting with the requisite harmful intent from arguing that they are not liable merely because they have engaged a third party to cause the transmission or display of inaccurate or misleading caller identification information.”<sup>54</sup> Consequently, Mr. Braver cannot escape liability for the harmful, spoofed calls made by Mr. Blumenstock when Mr. Blumenstock made such calls at his direction. Moreover, as stated previously, the evidence shows that Mr. Braver was *directly* involved in at least some of the harassing calls that Ms. Braver received.<sup>55</sup> Based on the calling records, the content of the voice recordings, and Ms. Braver’s affidavit that she had no prior relationship with Mr. Blumenstock, it appears that Mr. Braver not only was a knowing participant in the harassing calls that Ms. Braver received, but directed Mr. Blumenstock to make the calls. Accordingly, both Mr. Braver and Mr. Blumenstock are apparently liable for the spoofed calls that Ms. Braver received.

18. Harmful Nature of the Spoofed Calls. As explained in detail above, both the Truth in Caller ID Act and the Rules make it unlawful to spoof a telephone number when the caller’s purpose for doing so is to “cause harm.”<sup>56</sup> The Commission specifically stated that the term “harm” covered not only physical or financial harm, but also “encompasses . . . emotional harm, *including stalking, harassment, and the violation of protection and restraining orders.*”<sup>57</sup>

19. During the period Ms. Braver received the harmful, spoofed calls from Mr. Blumenstock at the direction or with the participation of Mr. Braver, she had a court-ordered Temporary Order of Protection against her ex-husband.<sup>58</sup> The Commission specifically identified the violation of protection orders as an example of a “harm” covered by the Truth in Caller ID Act and the Rules.<sup>59</sup> The malicious calls made by Mr. Blumenstock at the direction or with the participation of Mr. Braver are precisely the type of spoofing by abusive spouses that Congress sought to punish under the Truth in Caller ID Act.<sup>60</sup>

20. The evidence indicates that Mr. Blumenstock and Mr. Braver intended to cause harm to Ms. Braver through their spoofed calls. They executed an extensive calling campaign that appears specifically designed to intimidate, harass, and threaten Ms. Braver. For example, Mr. Blumenstock and Mr. Braver (1) specifically selected spoofed phone numbers designed to intimidate Ms. Braver or induce her to answer the calls; (2) they disguised their voices by using the voice modulation feature of CallerIDFaker.com’s spoofing service; and (3) they conveyed bizarre, threatening, and/or disturbing messages, in order to elicit the maximum amount of harm to the victim. Between May and September 2015, Mr. Blumenthal and Mr. Braver’s campaign of harassment and stalking became increasingly personal, spoofing numbers with special meaning to Ms. Braver, such as those belonging to her child’s school and her parents’ home.<sup>61</sup> The spoofed calls repeatedly referenced personal information regarding

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<sup>53</sup> 47 CFR § 64.1604(a) (emphasis added).

<sup>54</sup> Truth in Caller ID Order, 26 FCC Rcd at 9122, para. 21. The inclusion of “indirect” violations of the Commission’s spoofing rules is logical and necessary. Otherwise, violators could escape liability any time they used a third-party service to transmit the spoofed call. *See id.*

<sup>55</sup> *See supra* para. 13.

<sup>56</sup> *See supra* paras. 4-5.

<sup>57</sup> Truth in Caller ID Order, 26 FCC Rcd at 9122, para. 22 (emphasis added).

<sup>58</sup> *See supra* para. 14.

<sup>59</sup> Truth in Caller ID Order, 26 FCC Rcd at 9122, para. 22.

<sup>60</sup> *Id.* at 9122-23, para. 22 (stating record “offers substantial evidence that abusive spouses use third-party caller ID services to harass and stalk their victims”).

<sup>61</sup> *See supra* para. 9.

Ms. Braver and her daughter.<sup>62</sup> There is no reason for Mr. Blumenstock or Mr. Braver to spoof such numbers, let alone communicate such messages, except to harass and disturb the recipient, Ms. Braver.

21. Ms. Braver told Bureau staff and local law enforcement that she felt harassed and intimidated by the repeated menacing calls.<sup>63</sup> She also stated to Bureau investigators that the spoofed phone numbers selected by Mr. Braver and Mr. Blumenthal—in particular calls from a local prisons and the district where her minor child attends school—were deeply upsetting and disturbing to her.<sup>64</sup> Bureau review of the recorded calls supports Ms. Braver’s claims. Moreover, the fact that Ms. Braver had obtained an Order of Protection against Mr. Braver supports her statements that these contacts, which either came from him or were made at his direction, were intended to cause harm. In this case, the use of the modulation tool, the malicious tone, the content of the messages and the personal references therein show that the spoofed calls were intentionally harmful in nature.

22. Based on both the information provided by Ms. Braver and the evidence uncovered in the Bureau’s investigation, we find that Mr. Blumenstock and Mr. Braver apparently violated Section 227(e) of the Act and Section 64.1604 of the Rules by knowingly causing, directly or indirectly, a caller ID service to transmit or display misleading or inaccurate caller ID information with the intent to cause harm to Ms. Braver.

### **B. Proposed Forfeiture**

23. Section 227(e) of the Act and the Section 1.80 of the Rules authorize the Commission to impose a forfeiture against any person that engages in unlawful spoofing.<sup>65</sup> Specifically, the Act and Rules authorize a forfeiture of up to \$10,000 for each spoofing violation, or three times that amount for each day of a continuing violation, up to a statutory maximum of \$1,025,000 for any single act or failure to act.<sup>66</sup> The Truth in Caller ID Act empowers the Commission “to proceed expeditiously to stop and . . . assess a forfeiture penalty against, any person or entity engaged in prohibited caller ID spoofing without first issuing a citation” against the violator.<sup>67</sup> In exercising our forfeiture authority under the Truth in

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<sup>62</sup> See *supra* paras. 9, 13.

<sup>63</sup> See *supra* para. 10.

<sup>64</sup> See *supra* para. 9.

<sup>65</sup> 47 U.S.C. § 227(e)(5); 47 CFR § 1.80(b)(4). The Truth in Caller ID Act and the Rules contain a two-year statute of limitations on proposing forfeitures for unlawful spoofing. 47 U.S.C. § 227(e)(5)(iv); 47 CFR § 1.80(c)(3). Unlike forfeitures assessed under Section 503(b) of the Act, 47 U.S.C. § 503(b), “the Truth in Caller ID Act does not require ‘willful’ or ‘repeated’ violations to justify imposition of a penalty.” Truth in Caller ID Order, 26 FCC Rcd at 9133, para. 48. As a result, the Bureau is not required to demonstrate the “conscious and deliberate commission or omission of any act” or that such act happened more than once or for more than one day to propose a forfeiture for apparently unlawful spoofing. See 47 U.S.C. § 312(f)(1)-(2) (defining “willful” and “repeated” under the Act). We nevertheless find that Mr. Blumenstock and Mr. Braver willfully and repeatedly spoofed caller ID information with the intent to cause harm.

<sup>66</sup> See 47 U.S.C. § 227(e)(5)(A); 47 CFR § 1.80(b)(4). In the alternative and in lieu of the Act’s general criminal penalty provisions in Section 501, 47 U.S.C. § 501, the Truth In Caller ID Act also provides for criminal fines up to \$10,000 for each violation, or three times that amount for each day of a continuing violation. 47 U.S.C. § 227(e)(5)(B).

<sup>67</sup> Truth in Caller ID Order, 26 FCC Rcd at 9132-33, para. 47. Under Section 503(b)(5) of the Act, a person who does not hold a license, permit, certificate, or other authorization issued by the Commission, or is not an applicant for the same, may not be issued a Notice of Apparent Liability for Forfeiture unless: (1) that person is first sent a citation of the violation charged, (2) is given an opportunity for a personal interview with an official of the Commission, and (3) subsequently engages in conduct of the type described in such citation. 47 U.S.C. § 503(b)(5). By contrast, the Truth In Caller ID Act only requires that the Commission provide the notice required under Section 503(b)(3) of the Act (notice and opportunity for a hearing before the Commission or an administrative law judge) or Section 503(b)(4) of the Act (Notice of Apparent Liability for Forfeiture) before assessing a forfeiture for unlawful



Caller ID Act, we must consider the “nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>68</sup> In addition, the Commission has established forfeiture guidelines; they identify criteria that we consider when determining the appropriate penalty in any given case.<sup>69</sup> Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.<sup>70</sup> We may also adjust proposed forfeitures downward in cases where the violation is minor in nature, when there is evidence of good faith action or voluntary disclosure of the violations, when the violator has a history of overall compliance, or when the violator demonstrates an inability to pay.<sup>71</sup>

24. The Commission has stated that “alteration of caller identification information for the purpose of harassing or stalking someone [is] an egregious violation of the Act and of our rules implementing the Act,”<sup>72</sup> and warned that it can seek “substantial penalties” against violators for unlawful spoofing.<sup>73</sup> In this case, the culpability of the violators is clear and the apparent violations were egregious, intentional, repeated, and caused substantial harm to the victim.<sup>74</sup> Consequently, the proposed forfeitures must be significant enough to deter repeat offenses by the apparent violators and dissuade similar misconduct by others in the future.<sup>75</sup> The proposed forfeitures must also account for the fact that Mr. Blumenstock and Mr. Braver appear to be first-time violators of the Act.<sup>76</sup> The Bureau previously assessed \$25,000 forfeitures against individuals for egregious, intentional, and repeated violations of the Act and Rules,<sup>77</sup> as well as in other cases impacting public safety.<sup>78</sup> As we found in those cases, we find that a \$25,000 fine is appropriate against individuals who engaged in egregious misconduct. We therefore find that proposed forfeitures of \$25,000 each against Mr. Blumenstock and Mr. Braver appropriately account for the nature, circumstances, extent, and gravity of the violations while serving as a sufficient deterrent against unlawful spoofing. As noted below, we may reduce the forfeiture if Mr.

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spoofing. 47 U.S.C. § 227(e)(5)(A). Here, we provide the required notice under Section 503(b)(4) of the Act through this Notice of Apparent Liability for Forfeiture.

<sup>68</sup> 47 U.S.C. § 503(b)(2)(E); Truth in Caller ID Order, 26 FCC Rcd at 9132, para. 46 (“In order to provide guidance about the factors the Commission will use in determining the amount of penalty it will assess for violations of the Truth in Caller ID Act, we adopt the Commission’s proposal to employ the balancing factors the Commission typically considers when determining the amount of a forfeiture penalty. Those factors are set out in section 503(b)(2)(E) of the Communications Act.”).

<sup>69</sup> 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> Truth in Caller ID Order, 26 FCC Rcd at 9123, para. 22.

<sup>73</sup> *Id.* at 9114, para. 2.

<sup>74</sup> 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(8).

<sup>75</sup> *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 171097, para. 19 (1997) (“[F]orfeiture amounts should be set high enough to serve as a deterrent and foster compliance with our rules).

<sup>76</sup> *Id.* at 17101-02, paras. 30-31; 47 CFR § 1.80(b)(8).

<sup>77</sup> *See, e.g., Damian Anthony Ojouku Allen*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 2982 (Enf. Bur. 2014); *Fabrice Polynice*, Forfeiture Order, 28 FCC Rcd 4297 (Enf. Bur. 2013); *Estevan J. Gutierrez*, Forfeiture Order, 28 FCC Rcd 15486 (Enf. Bur. 2013).

<sup>78</sup> *See, e.g., Drew Buckley*, Forfeiture Order, 30 FCC Rcd 165 (Enf. Bur. 2015) *AT&T Servs., Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 1949 (Enf. Bur. 2014); *Turner Broad. Sys., Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 15455 (Enf. Bur. 2013).

Blumenstock and Mr. Braver provide sufficient financial information demonstrating an inability to pay the proposed penalties.<sup>79</sup>

#### IV. CONCLUSION

25. We have determined that Steven Blumenstock and Gary Braver apparently violated Section 227(e) of the Act and Section 64.1604 of the Rules.<sup>80</sup> As such, Steven Blumenstock is apparently liable for a forfeiture of \$25,000 and Gary Braver is apparently liable for a forfeiture of \$25,000.

#### V. ORDERING CLAUSES

26. Accordingly, **IT IS ORDERED** that, pursuant to Section 227(e) of the Act<sup>81</sup> and Section 1.80 of the Rules,<sup>82</sup> Steven Blumenstock is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for violating Section 227(e) of the Act<sup>83</sup> and Section 64.1604 of the Rules.<sup>84</sup>

27. **IT IS FURTHER ORDERED** that, pursuant to Section 227(e) of the Act<sup>85</sup> and Section 1.80 of the Rules,<sup>86</sup> Gary Braver is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for violating Section 227(e) of the Act<sup>87</sup> and Section 64.1604 of the Rules.<sup>88</sup>

28. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,<sup>89</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Steven Blumenstock **SHALL PAY** the full amount of the proposed forfeitures or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeitures consistent with paragraph 32 below.

29. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,<sup>90</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Gary Braver **SHALL PAY** the full amount of the proposed forfeitures or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeitures consistent with paragraph 32 below.

30. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Steven Blumenstock and Gary Braver shall send electronic notification of payment to Johnny Drake at johnny.drake@fcc.gov and the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>91</sup> When completing the FCC Form 159, enter the Account

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<sup>79</sup> See *infra* para. 33.

<sup>80</sup> 47 U.S.C. § 227(e); 47 CFR § 64.1604.

<sup>81</sup> 47 U.S.C. § 227(e).

<sup>82</sup> 47 CFR § 1.80.

<sup>83</sup> 47 U.S.C. § 227(e).

<sup>84</sup> 47 CFR § 64.1604.

<sup>85</sup> 47 U.S.C. § 227(e).

<sup>86</sup> 47 CFR § 1.80.

<sup>87</sup> 47 U.S.C. § 227(e).

<sup>88</sup> 47 CFR § 64.1604.

<sup>89</sup> 47 CFR § 1.80.

<sup>90</sup> *Id.*

<sup>91</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

31. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.<sup>92</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

32. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Rules.<sup>93</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division, and to Richard A. Hindman, Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Kristi Thompson at [kristi.thompson@fcc.gov](mailto:kristi.thompson@fcc.gov).

33. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

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<sup>92</sup> See 47 CFR § 1.1914.

<sup>93</sup> 47 CFR §§ 1.16, 1.80(f)(3).

34. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Steven Blumenstock, [REDACTED], and Gary Braver, [REDACTED].

FEDERAL COMMUNICATIONS COMMISSION

Travis LeBlanc  
Chief  
Enforcement Bureau

## ATTACHMENT

## Apparently Unlawful Spoofed Calls Received by Robin Braver

CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time Spoofed Call Received by Robin Braver <sup>2</sup>	Spoofed Caller ID Number Displayed on Robin Braver's Phone <sup>2</sup>	True Owner of Spoofed Caller ID Number	Message <sup>3</sup>
██████████	05/19/2015 11:33 AM	05/19/2015 11:34 AM	914-941-0108	Sing Sing Correctional Facility, Ossining, NY	"we look forward to you joining us here."
██████████	06/30/2015 10:58 AM	06/30/2015 10:58 AM	716-532-0177	Corrections Department, Gowanda, NY	"we are waiting for you."
██████████	06/30/2015 6:48 PM	06/30/2015 6:49 PM	716-532-0177	Corrections Department, Gowanda, NY	"we are waiting for you."
██████████	06/30/2015 8:04 PM	06/30/2015 8:04 PM	716-532-0177	Corrections Department, Gowanda, NY	"we are waiting for you."
██████████	07/02/2015 7:57 AM	07/02/2015 7:57 AM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"when are you going to join us here?"
██████████	07/02/2015 12:22 PM	07/02/2015 12:23 PM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"when are you going to join us here?"
██████████	07/02/2015 1:34 PM	07/02/2015 1:34 PM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"when are you going to join us here?"

<sup>1</sup> See Call records of Steven Blumenstock (on file in File No. EB-TCD-15-00020134).

<sup>2</sup> See Call records of Robin Braver (on file in File No. EB-TCD-15-00020134); Robin Braver Affidavit.

<sup>3</sup> See Robin Braver Affidavit.

CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time Spoofed Call Received by Robin Braver <sup>2</sup>	Spoofed Caller ID Number Displayed on Robin Braver's Phone <sup>2</sup>	True Owner of Spoofed Caller ID Number	Message <sup>3</sup>
[REDACTED]	07/16/2015 11:19 AM	07/16/2015 11:20 AM	718-546-1500	New York City Dept. of Corrections (main line)	"hey, when are you coming to stay with us? We are waiting for you."
[REDACTED]	07/20/2015 10:10 AM	07/20/2015 10:10 AM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"we are waiting for you to join us here."
[REDACTED]	07/20/2015 11:37 AM	07/20/2015 11:38 AM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"we are waiting for you to join us here."
[REDACTED]	07/23/2015 9:03 AM	07/23/2015 9:04 AM	718-546-1500	New York City Dept. of Corrections (main line)	"we have a cell here for you."
[REDACTED]	07/23/2015 9:41 AM	07/23/2015 9:41 AM	718-546-1500	New York City Dept. of Corrections (main line)	"we have a cell here for you."
[REDACTED]	07/29/2015 10:45 AM	07/29/2015 10:45 AM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"how is your day going? We are waiting for you to join us."
[REDACTED]	07/29/2015 10:59 AM	07/29/2015 10:59 AM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"how is your day going? We are waiting for you to join us."
[REDACTED]	07/29/2015 11:00 AM	07/29/2015 11:00 AM	516-572-4200	Nassau County, NY Correctional Center, Long Island, NY	"how is your day going? We are waiting for you to join us."
[REDACTED]	07/30/2015 2:45 PM	07/30/2015 2:45 PM	516-572-4202	Nassau County, NY Correctional Center, Sherriff's Department, Long Island, NY	"when are you joining us?"

CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time Spoofed Call Received by Robin Braver <sup>2</sup>	Spoofed Caller ID Number Displayed on Robin Braver's Phone <sup>2</sup>	True Owner of Spoofed Caller ID Number	Message <sup>3</sup>
██████████	08/03/2015 7:34 AM	08/03/2015 7:35 AM	914-941-0108	Sing Sing Correctional Facility, Ossining, NY	"we are waiting for you."
██████████	08/03/2015 9:34 AM	08/03/2015 9:35 AM	914-941-0108	Sing Sing Correctional Facility, Ossining, NY	"we are waiting for you."
██████████	08/03/2015 2:40 PM	08/03/2015 2:40 PM	914-941-0108	Sing Sing Correctional Facility, Ossining, NY	"we are waiting for you."
██████████	08/08/2015 10:16 AM	08/08/2015 10:16 AM	516-572-0123	Nassau University Medical Center	"hey we have a spot here for you."
██████████	08/11/2015 10:49 AM	08/11/2015 10:50 AM	██████████	Private wireless phone number (third party)	"hey" [Victim hung up phone without listening to remainder of message]
██████████	08/11/2015 4:37 PM	08/11/2015 4:38 PM	██████████	Private wireless phone number (third party)	"hey" [Victim hung up phone without listening to remainder of message]
██████████	08/12/2015 3:07 PM	08/12/2015 3:07 PM	██████████	Parents of victim, Robin Braver	[Victim hung up as soon as she realized call was not actually from her parents.]
██████████	08/12/2015 3:16 PM	08/12/2015 3:16 PM	██████████	Parents of victim, Robin Braver	[Victim hung up as soon as she realized call was not actually from her parents.]
██████████	08/13/2015 1:48 PM	08/13/2015 1:49 PM	516-781-0579	United States Post Office, Bellmore, NY	"be sure to make your payments."

CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time CallerIDFaker.com Access Number Dialed <sup>1</sup>	Date & Time Spoofed Call Received by Robin Braver <sup>2</sup>	Spoofed Caller ID Number Displayed on Robin Braver's Phone <sup>2</sup>	True Owner of Spoofed Caller ID Number	Message <sup>3</sup>
[REDACTED]	08/16/2015 11:14 AM	08/16/2015 11:15 AM	877-242-4264	American Mothers, Inc. [NGO founded by Eleanor Roosevelt]	"we are calling to inform you that you've won the mother of the year award. When are you coming to pick up your trophy?"
[REDACTED]	08/20/2015 2:26 PM	08/20/2015 2:27 PM	212-745-0200	British Consulate General, New York City	"we are waiting for you."
[REDACTED]	09/03/2015 9:47 AM	09/03/2015 9:47 AM	516-573-6700	Nassau County Police Department, 7th Precinct	"when are you joining us?"
[REDACTED]	09/07/2015 11:57 AM	09/07/2015 11:58 AM	[REDACTED]	Private wireless phone number (third party)	"how's your mother/daughter day going?"
[REDACTED]	09/08/2015 5:56 PM	09/08/2015 5:56 PM	516-679-3296	Bellmore Public Schools	"Mrs. Braver hello Mrs. Braver."
[REDACTED]	09/24/2015 2:38 PM	09/24/2015 2:39 PM	516-679-2932	Bellmore Public Schools	"Mrs. Braver Mrs. Braver."