

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF CALIFORNIA

3 FEDERAL TRADE COMMISSION,

4 Plaintiff,

5 v.

6  
7 HOPE FOR CAR OWNERS, LLC, and  
8 PATRICK FREEMAN,

9 Defendants.

Case No. 2:12-cv-00778-GEB-EFB

STIPULATED PRELIMINARY  
INJUNCTION

10 On March 27, 2012, Plaintiff, Federal Trade Commission (“FTC”), filed a complaint  
11 seeking a permanent injunction and other equitable relief, under Section 13(b) of the Federal  
12 Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), against Defendants Hope for Car  
13 Owners, LLC and Patrick Freeman. On March 28, 2012, the FTC filed a motion for  
14 temporary restraining order and order to show cause why a preliminary injunction should not  
15 issue. On April 4, 2012, after hearing argument from the parties, the Court issued a  
16 Temporary Restraining Order (“TRO”). On April 16, 2012, the FTC and Defendants filed a  
17 “Stipulated Preliminary Injunction.” (ECF No. 21.)  
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20 However, as was explained during the April 4, 2012 hearing on Plaintiff’s motion for  
21 a TRO and in the TRO, [a] corporation may appear in federal court only through licensed  
22 counsel.” United States v. High Country Broad Co., 3 F.3d 1244, 1245 (9th Cir. 2010). “An  
23 appearance ordinarily is an overt act by which the party comes into court and submits to the  
24 jurisdiction of the court. This is an affirmative act involving knowledge of the suit and an  
25 intention to appear.” Benny v. Pipes, 799 F.2d 489, 492 (9th Cir. 1986.) (internal quotation  
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1 marks omitted). Since Defendant Hope for Car Owners, LLC does not appear through  
2 licensed counsel, it cannot stipulate to a preliminary injunction. Therefore, only Defendant  
3 Freeman is referenced in the Stipulated Preliminary Injunction Order (“Order”) below.  
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#### 5 **FINDINGS**

6 By stipulation of the parties, the Court finds as follows:

- 7 1. The FTC and Defendant have stipulated and agreed to the entry of this preliminary  
8 injunction order without any admission of wrongdoing or violation of law, and  
9 without a finding by the Court of law or fact other than stated below.  
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- 11 2. Defendant waives all rights to seek judicial review or otherwise challenge or contest  
12 the validity of this Order.
- 13 3. The Court has jurisdiction over the subject matter of this case, and there is good cause  
14 to believe it will have jurisdiction over Defendant.
- 15 4. Venue in the Eastern District of California is proper under 28 U.S.C. § 1391(b) and  
16 (c) and 15 U.S.C. § 53(b).
- 17 5. The FTC asserts that there is good cause to believe that Defendant has engaged, and is  
18 likely to continue to engage, in acts or practices that violate Section 5 of the FTC Act,  
19 15 U.S.C. § 45, and that the FTC is, therefore, likely to prevail on the merits of this  
20 action.  
21
- 22 6. The FTC asserts that there is good cause to believe that consumers will suffer  
23 immediate and continuing harm unless Defendant is immediately restrained by an  
24 order of this Court.  
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1 7. No security is required of any agency of the United States for issuance of a  
2 preliminary injunction, Fed. R. Civ. P. 65(c).

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4 8. The entry of this Preliminary Injunction is in the public interest.

5 **DEFINITIONS**

6 1. "Assisting others" includes, but is not limited to, providing any of the following  
7 goods or services to another person:

8 A. performing customer service functions, including, but not limited to, receiving  
9 or responding to consumer complaints;

10 B. formulating or providing, or arranging for the formulation or provision of, any  
11 telephone sales script or any other marketing material, including but not  
12 limited to, the text of any Internet website, email, or other electronic  
13 communication;

14 C. providing names of, or assisting in the generation of, potential customers;

15 D. performing marketing services of any kind; or

16 E. acting or serving as an owner, officer, director, manager, or principal of any  
17 entity.  
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20 2. "Document" is equal in scope and synonymous in meaning to the usage of the term in  
21 Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs,  
22 charts, photographs, audio and video recordings, computer records, and any other data  
23 compilations from which information can be obtained. A draft or non-identical copy  
24 is a separate document within the meaning of the term.  
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- 1 3. “Motor vehicle” means (a) any self-propelled vehicle designed for transporting  
2 persons or property on a street, highway, or other road; (b) recreational boats and  
3 marine equipment; (c) motorcycles; (d) motor homes, recreational vehicle trailers, and  
4 slide-in campers; and (e) other vehicles that are titled and sold through dealers.  
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- 6 4. “Motor vehicle loan” means any loan secured by title to a motor vehicle or otherwise  
7 secured by the motor vehicle as collateral.
- 8 5. “Motor vehicle loan assistance relief product or service” means any product, service,  
9 plan, or program, offered or provided to the consumer in exchange for consideration,  
10 that is represented, expressly or by implication, to assist or attempt to assist the  
11 consumer with any of the following:  
12
- 13 A. stopping, preventing, or postponing any repossession of the consumer’s motor  
14 vehicle, or otherwise saving the consumer’s motor vehicle from repossession;
  - 15 B. negotiating, obtaining, or arranging a modification of any term of a motor  
16 vehicle loan, including a reduction in the amount of interest, principal balance,  
17 monthly payments, or fees;
  - 18 C. obtaining any forbearance or modification in the timing of payments from any  
19 motor vehicle loan holder or servicer on any motor vehicle loan;
  - 20 D. negotiating, obtaining, or arranging any extension of the period of time within  
21 which the consumer may (i) cure his or her default on a motor vehicle loan,  
22 (ii) reinstate his or her motor vehicle loan, (iii) redeem a motor vehicle, or (iv)  
23 exercise any right to reinstate a motor vehicle loan or redeem a motor vehicle;  
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1 E. obtaining any waiver of an acceleration clause or balloon payment contained  
2 in any promissory note or contract secured by any motor vehicle; or

3 F. negotiating, obtaining, or arranging a sale of a motor vehicle or any other  
4 disposition of a motor vehicle loan other than a sale to a third party that is not  
5 the motor vehicle loan holder.  
6

7 The foregoing shall include any manner of claimed assistance, including, but not  
8 limited to, auditing or examining a consumer's motor vehicle loan application.

- 9 6. "Person" means a natural person, organization, or other legal entity, including a  
10 corporation, partnership, proprietorship, association, cooperative, or any other group  
11 or combination acting as an entity.  
12

### 13 ORDER

#### 14 PROHIBITED REPRESENTATIONS

- 15 **I. IT IS THEREFORE ORDERED** that Defendant and his successors, assigns, agents,  
16 servants, employees, and attorneys, and those persons or entities in active concert or  
17 participation with any of them who receive actual notice of this Order by personal  
18 service, facsimile transmission, email, or otherwise, whether acting directly or  
19 through any corporation, subsidiary, division, or other device, in connection with the  
20 advertising, marketing, promotion, offering for sale, sale, or provision of any motor  
21 vehicle loan assistance relief product or service, are hereby restrained and enjoined  
22 from:  
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- 24 A. Misrepresenting, or from assisting others who are misrepresenting, expressly  
25 or by implication, any of the following:  
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- 1           1.     That Defendant or any other person generally will obtain for  
2           consumers a renegotiation, settlement, modification, or other alteration  
3           of the terms of any motor vehicle loan that will make consumers'  
4           payments substantially more affordable;
- 5           2.     The degree of success that Defendant or any other person has had in  
6           performing any motor vehicle loan assistance relief product or service;
- 7           3     The nature of Defendant's or any other person's relationship with any  
8           motor vehicle loan holder or servicer, or other secured or unsecured  
9           lender;
- 10          4.     The amount of time it will take or is likely to take to obtain or arrange  
11          a renegotiation, settlement, modification, or other alteration of the  
12          terms of any motor vehicle loan;
- 13          5.     The nature, expertise, position, or job title of any employee, agent,  
14          representative, contractor, independent contractor, or any other person  
15          who provides any service to Defendant or any other person;
- 16          6.     That any employee, agent, representative, contractor, independent  
17          contractor, or any other person who provides any service to Defendant  
18          or any other person will perform any service on behalf of any  
19          consumer; or  
20          21          22          23          24          25          26          27          28
- 21          7.     The refund policy of Defendant or any other person, including but not  
22          limited to the likelihood of a consumer obtaining a full or partial

1 refund, or the circumstances in which a full or partial refund will be  
2 granted to the consumer; or

3 B. Representing, or assisting others who are representing, expressly or by  
4 implication, any degree or rate of success that Defendant or any other person  
5 has had in performing any motor vehicle loan assistance relief product or  
6 service, unless, at the time of making the representation, Defendant has a  
7 reasonable basis supporting such a representation.  
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9 **RESTRICTION ON COLLECTION OF ADVANCE FEES**

10 **II. IT IS FURTHER ORDERED** that Defendant and his successors, assigns, agents,  
11 servants, employees, and attorneys, and those persons or entities in active concert or  
12 participation with any of them who receive actual notice of this Order by personal  
13 service, facsimile transmission, email, or otherwise, whether acting directly or  
14 through any corporation, subsidiary, division, or other device, in connection with the  
15 advertising, marketing, promotion, offering for sale, sale, or provision of any motor  
16 vehicle loan assistance relief product or service, are hereby restrained and enjoined  
17 from requesting or accepting payment of any fee or consideration in advance of  
18 performing each and every motor vehicle loan assistance relief product or service that  
19 Defendant contracted to perform or represented would be performed.  
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22 **DISABLEMENT OF WEB SITES**

23 **III. IT IS FURTHER ORDERED** that, immediately upon service of the Order upon  
24 them, (1) any person hosting any Internet website for, or on behalf of, Defendant, and  
25 (2) Defendant and his successors, assigns, agents, servants, employees, and attorneys,  
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1 and those persons or entities in active concert or participation with any of them who  
2 receive actual notice of this Order by personal service, facsimile transmission, email,  
3 or otherwise, whether acting directly or through any corporation, subsidiary, division,  
4 or other device, shall:

5  
6 A. Immediately do whatever is necessary to ensure that any Internet website used  
7 by Defendant for the advertising, marketing, promotion, offering for sale, sale,  
8 or provision of any motor vehicle loan assistance relief product or service, and  
9 containing statements or representations prohibited by Section I of this Order,  
10 including, but not limited to carloanmod.com, hopeforcarowners.com,  
11 hope4carowners.com, hope4carowners.org, and avoidrepo.org, cannot be  
12 accessed by the public;

13  
14 B. Prevent the destruction or erasure of any Internet website used by Defendant  
15 for the advertising, marketing, promotion, offering for sale, sale, or provision  
16 of any motor vehicle loan assistance relief product or service, including, but  
17 not limited to carloanmod.com, hopeforcarowners.com, hope4carowners.com,  
18 hope4carowners.org, and avoidrepo.org, by preserving such website in the  
19 format in which they are maintained currently; and

20  
21 C. Immediately notify in writing counsel for the FTC of any other Internet  
22 website operated or controlled by Defendant not listed in Section III.A or B  
23 above.  
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1                   **SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

2       **IV. IT IS FURTHER ORDERED** that, any domain name registrar shall suspend the  
3 registration of any Internet website used by Defendant for the advertising, marketing,  
4 promotion, offering for sale, sale, or provision of any motor vehicle loan assistance  
5 relief product or service, and containing statements or representations prohibited by  
6 Section I of this Order, including, but not limited to carloanmod.com,  
7 hopeforcarowners.com, hope4carowners.com, hope4carowners.org, and  
8 avoidrepo.org, and provide immediate notice to counsel for the FTC of any other  
9 Internet domain names registered by Defendant or his agents, servants, employees,  
10 and attorneys, and those persons in active concert or participation with Defendant  
11 who receive actual notice of this Order by personal service or otherwise.  
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14                   **PROHIBITION ON RELEASE OF CUSTOMER INFORMATION OR CUSTOMER**  
15                   **LISTS**

16       **V. IT IS FURTHER ORDERED** that Defendant and his successors, assigns, agents,  
17 servants, employees, and attorneys, and those persons or entities in active concert or  
18 participation with any of them who receive actual notice of this Order by personal  
19 service, facsimile transmission, email, or otherwise, whether acting directly or  
20 through any corporation, subsidiary, division, or other device, are restrained and  
21 enjoined from disclosing, using, or benefitting from customer information, including  
22 the name, address, telephone number, email address, social security number, other  
23 identifying information, or any data that enables access to a customer's account  
24 (including a credit card, bank account, or other financial account), of any person  
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1 which Defendant obtained prior to entry of this Order in connection with any vehicle  
2 loan assistance relief product or service; *provided, however*, that Defendant may  
3 disclose such information to a law enforcement agency or as required by law,  
4 regulation, or court order.  
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6 **PRESERVATION OF RECORDS**

7 **VI. IT IS FURTHER ORDERED** that Defendant and his successors, assigns, agents,  
8 servants, employees, and attorneys, and those persons or entities in active concert or  
9 participation with any of them who receive actual notice of this Order by personal  
10 service, facsimile transmission, email, or otherwise, whether acting directly or  
11 through any corporation, subsidiary, division, or other device, are hereby restrained  
12 and enjoined from destroying, erasing, mutilating, concealing, altering, transferring,  
13 or otherwise disposing of, in any manner, directly or indirectly, any documents that  
14 relate to the business practices, or business or personal finances, of Defendant.  
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17 **NOTICE TO EMPLOYEES AND AGENTS**

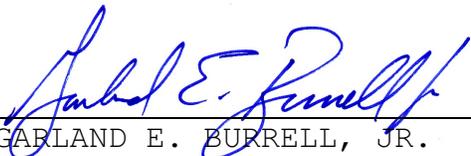
18 **VII. IT IS FURTHER ORDERED** that within three (3) calendar days after service of this  
19 Order, Defendant shall provide a copy of this Order to each of his employees,  
20 directors, subsidiaries, affiliates, attorneys, independent contractors, representatives,  
21 franchisees, all persons in active concert or participation with Defendant, and any  
22 person to whom Defendant has sold or provided marketing leads for motor vehicle  
23 loan assistance relief products or services. Within five (5) calendar days following  
24 this Order, Defendant shall provide the FTC with an affidavit identifying the names,  
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1 titles, addresses, and telephone numbers of the persons that Defendant has served with  
2 a copy of this Order in compliance with this provision.

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4 **CONCLUSION**

5 For the stated reasons, the stipulated preliminary injunction against Defendant Patrick  
6 Freeman is approved, and the hearing scheduled for April 18, 2012, is vacated. Further, since  
7 Defendants are proceeding in pro per, this case is referred to the assigned magistrate judge under  
8 Local Rule 302(c)(21).

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10 Dated: April 16, 2012

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13 GARLAND E. BURRELL, JR.  
14 United States District Judge  
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