

**CRAIG E. SIMMONS**

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DISCOVERABLE UNDER Evidence Code Sections 1152 and 1154 AS WELL  
AS Evidence Code section 352 -DO NOT DISSEMINATE**

August 23, 2011

ALL 36 Trustees Received Personalized  
Trustee, SAG-PPHP

**RE: Wrongful Termination Complaint  
Breach of Fiduciary Duty / Duty of Loyalty**

Dear M\_\_\_\_:

I am writing to each of you, individually, as a Trustee of the SAG-PPHP Board, in your role as Plan Fiduciaries, to request an independent investigation of the circumstances surrounding my wrongful termination from the Plans as Executive Director of HR, IT and Risk Management and my allegations of wrongdoing by Executives of the Plans.

This is the second time I am raising these concerns to the Board of Trustee level.<sup>1</sup> It appears that my complaints of wrongdoing have been widely discussed by some Board members and Plan attorneys. I also attempted to appear at your *March 24 & 25, 2011* Board Meeting, but I was prohibited from entering the building premises by Bruce Dow.

Today, I appeal to you as **Fiduciaries of the Pension and Health Plans**, as well as to your responsibilities for oversight of these issues and request that you open **an independent and credible investigation** into this matter. Ironically, if the Plans had adopted an appropriate “whistleblower” hotline or anonymous reporting protocol (which I proposed with Ms. Alice Cardenas nearly two years ago) I would have sought that mechanism, but Mr. Bruce Dow dismissed the idea and would not implement the process – despite it being well documented as a “best practice” for uncovering wrongdoing in company structures.

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<sup>1</sup> The first complaint I raised about substantial wrongdoing, self-dealing and improper activity by Mr. Bruce Dow, CEO, was made on **March 24, 2011** directly to Trustee Duncan Crabtree-Ireland. (See confirming e-mails, sent the next morning, attached as Exhibit #1.) After my “whistle blowing complaint” to the Trustee/Board, Dow terminated my employment one day later on March 25, 2011 – which I received on March 28, 2011. Attorney Bob Bush acknowledged my Board complaint (see Footnote #25 below) and both Attorney Marc Allaria and Dow also acknowledged my board complaint in their settlement offer, where they **“demand retraction of wrongdoing allegations made to Crabtree-Ireland.”** (See Exhibit #2 – Settlement Offer – demand for retraction, #5.)

Over the past couple of years, I have met many of you – most notably through presentations I have made to the Trustees in my role as the lead management investigator regarding the Nader Karimi embezzlement scheme (with an estimated loss of \$5-\$7.5 million to the Plans).

I have always been clear with the Trustees (specifically to Trustees French and Crabtree-Ireland) that the size and scope of the embezzlement scheme and related losses are substantial – and all occurred while Karimi was reporting directly to Dow – who had exclusive oversight and management of Karimi's deals, while Karimi spent nearly \$50 million of Plan funds on IT with little accountability by Dow and resulting in a far lower than anticipated ROI.

I am extremely proud of my work on behalf of the Plans and the Trustees in uncovering the scheme to defraud the Plans of millions of dollars<sup>2</sup>, as well as my coordination and action on the inside investigation and Fiduciary Bond \$2 million insurance claim. <sup>3</sup> This is but one of several of my significant accomplishments during my employment at SAG-PPHP – much of which is well documented.

I do not write this letter out of anger, and I am not (*as Mr. Dow likes to characterize former management leaders*) "**disgruntled**." In fact, I am a Harry S. Truman Scholar and long-time professional (*with earned Bachelor (USC), Masters (Georgetown) and Law (USF) degrees*), as well as an honorable (gay) family man with twin 11-year-old boys and a husband of nearly 21 years. I am a licensed California attorney, (as well as a member of the State bars of Massachusetts and Colorado) with no record of discipline or complaints, for nearly 20 years – since my Bar admittance.<sup>4</sup>

I have also held high-level confidential positions with the California Supreme Court and the United States Senate. I can assure you that I came into work each day at SAG-PPHP to do my very best and make the best professional judgments I could on behalf of staff, the participants and the Trustees.

Independent employee and management focus group reports will support my integrity, passion for fairness and my ability as a leader. <sup>5</sup> I have a 25-year history of business and legal success, and I have numerous former employers (as well as a significant number of current SAG-PPHP employees) who can testify to the positive impact I have made at SAG-PPHP (*including development and implementation of a new employee compensation system, updated ADP payroll system, SAG-PPHP Leadership Academy, management training*

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<sup>2</sup> Attached, as Exhibit #3 is a copy of the **SIMPLEX** contract (*containing my original handwritten notes included thereon*) where the Corporate Controller and I first discovered the Karimi embezzlement scheme of activities and reported it to CFO Cardenas and CEO Dow.

<sup>3</sup> Noel Cohen and Rebecca Torrey, of the Manatt firm can testify as to my outstanding work and coordination with their firm and CHUBB/Federal Insurance of human resource and organizational activities on behalf of the Plans.

<sup>4</sup> Mr. Dow threatened me, on March 9, 2011, that if I made any of these allegations public, he would file a complaint against my State Bar license – although I have never acted in the capacity of an attorney for the Plans.

<sup>5</sup> The Employers Group conducted confidential focus group interviews and produced culture audits in 2009-10. The Board can review these records.

*programs, implementation of new annual evaluation system, new outside legal counsel reviews and usage, among other measureable and documented successes ) and various other profit and non-profit organizations throughout California.*

I believe Bruce Dow wrongfully terminated me due to my refusal to participate in misleading governmental agencies and, misleading you, the SAG-PPHP Board of Trustees, concerning information that should have been reported to you, as well as to the Department of Labor. These violations include:

1. Violating ERISA laws,
2. Improper self-dealing,
3. Conflict of interest transactions by Dow and his family,
4. Improper transactions benefitting insiders and related parties,
5. Breach of Fiduciary Duty,
6. Breach of ERISA duty of prudence,
7. Failure to report criminal activity,
8. Harassment,
9. Religious bias,
10. Sexual orientation bias,
11. Misuse of Plan assets,
12. Insider trading,
13. Racketeering,
14. Intentional/Negligent Infliction of Emotional Distress,
15. Breach of Covenant of Fair Dealing,
16. Blackmail,
17. Conversion,
18. Among other significant and improper issues, all of which will be included in my soon-to-be filed complaints.

Below, I will explain some of these allegations in greater detail.

I write to you today to set the record straight on disturbing and improper actions taken by my executive colleagues and by my superior Bruce Dow - while I was employed by SAG-PPHP. **To be clear:** I raised objections with my superiors during my tenure. Today, I appeal to each of you as Plan Fiduciaries and to provide you with the facts about the egregious actions taken against me, as well as the irreparable harm Dow's actions have caused the Trustees, the Participants and the Plans.

Let me re-introduce myself to you. I was retained as an HR Consultant in *July 2008* while the Plans Executive's worked with Korn-Ferry to hire a permanent replacement for long-time HR Executive, Lesleigh Egan. Approximately 45 days into my consulting assignment, I was approached by CFO Alice Cardenas, who asked me to consider taking a permanent position at the Plans as the HR Executive. Mr. Dow approved the decision, and I was hired as a plan employee *on October 1, 2008*, at the end of my consulting assignment.

Since becoming Executive Director of HR, I have transitioned at least 50-60 employees out of the organization or to new, more appropriate internal roles, without one claim or lawsuit arising against the Plans or myself. I have also virtually eliminated the use of outside labor counsel and have significantly reduced legal billings over that time. I have always had extremely positive annual reviews, including the most recent given to me by Mr. Dow on

January 3, 2011 (attached as Exhibit #4) and a “merit pay” increase on January 4, 2011 - approximately 7 weeks prior to being abruptly dismissed by Dow. <sup>6</sup> I ask you to review this document **in detail**, as I am characterized as an “**Excellent**” Executive. I always took my role, working for a Federal Trust Fund for SAG participants, as a duty of responsibility and an honor.

So, what happened in the seven weeks following my excellent annual performance review and “merit” pay increase causing me to “*fall out of favor*” with my superior, Bruce Dow? Dow’s business practices were becoming an ongoing source of simmering conflict, and the bottom line is: **I would not participate in the wrongdoing or improper and illegal behavior that I was being expected of me by my superior, Bruce Dow, as a demonstration of my “loyalty” to him.**

In addition, my two colleagues, *Chris Dowdell and Michael Estrada*<sup>7</sup>, who were both under investigation by HR for harassment complaints made by female management leaders (Shink and Quintas), as well as for using highly profane language in arguments with me and others on several occasions in the workplace.<sup>8</sup> Because I would not “look the other way” to this misconduct, I faced retaliation, retribution, and slander by Dow, Dowdell and Estrada. <sup>9</sup> In an ironic twist of fate, Dow informed me directly (one week prior to summarily dismissing me off the premises) “*I was safe as long as he (Dow) was the CEO, but that if Estrada or Dowdell became CEO, he did not know what would happen to me.*” Obviously, Estrada and Dowdell put me in jeopardy, and shared their anger toward my many successes with Dow.

Over the past three years, five (5) SAG-PPHP Senior Executives have left the Plans employment and the majority of those (3) (*Cardenas, Karimi and Simmons*) were summarily dismissed on the spot by Dow. Does this action signal bad hiring or bad management? Should you, as a Plan Trustee, inquire further as to the actual circumstances behind these departures? Or just accept the CEO's brief explanation of the Executive Departures? In

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<sup>6</sup> For further information, please review the annual **HR Report** -outlining employee-related success in worker’s compensation claims, employee turnover rates, litigation costs, etc. – all occurring during my tenure.

<sup>7</sup> Hired in May 2008 (before I joined HR,) Mr. Estrada reported to me, in a social setting, that he had a police record for “resisting arrest,” but that he was not “subject to a full background check” because he was “*brought into SAG-PPHP personally by Dow.*”

<sup>8</sup> Dowdell has a long, well-documented history of “**anger management**” issues, including multiple company paid help seminars, (one of which, he cited as a “*joke*” and as a “*free week in New York paid for by the Plans*”) as well as a history of being counseled for **inappropriate sexual relationships** with subordinates. Dowdell should have been dismissed as a management employee years ago – as he is a huge potential liability to the Plans – *a fact I pointed out to Dow.*

<sup>9</sup> Dowdell (*who only possesses a high school education*) currently earns \$240,000/year and is in a ongoing sexual relationship with a senior SAG-PPHP Director, Nora Sham (also a high school graduate), who is earning \$140,000 –together paid nearly \$400,000 per year – a figure I openly questioned as “inappropriate.” Further, Estrada had absolutely no management nor supervisory experience prior to being hired by Dow as “Director of Investments;” rather, he was a 401(k) sales person for Merrill Lynch and a close religious and conservative family friend of Dow. Prior to that, Estrada was employed as a UPS delivery person. The Dow’s and Estrada’s socialize together through Four Square-church functions and conservative causes.

Cardenas's case, Alice had 24 years of service to you and the Plans -and was given one (1) hour by Dow to pack her things and leave. In my case, I was invited to a “fake budget” meeting, where false accusations were leveled against me, as I was harassed and maligned by Dow - and immediately escorted off the premises. Does this uphold the fair dealing for employees of the Trusts? I would say not, but that's for you to decide, or potentially a Federal judge or jury.

Due to the measurable and definable success I enjoyed within the SAG-PPHP organization, I was promoted, on *January 14, 2011* to be **Executive Director - HR, IT and Risk Management**. As stated above, on January 4, 2011, I was given (by Dow) a “merit” pay increase to \$220,000. (See Exhibit #5.) As a result of this expanded role, I gained additional access to more information, departmental histories and I was able to ask more probing questions about some questionable operational situations I uncovered. For example, in the *Imaging Department* (which reported to me), I was informed there had been a significant illegal drug operation involving Mr. Dow's daughter, Catalina, and Manager Dawn Royal's son, Jordan.<sup>10</sup> In reviewing Imaging's role in *claims processing*, I was informed by Director Donna Anderson<sup>11</sup> (and then also confirmed by Manager Melissa Deeton) that Mr. Dow had coerced the Plans to pay the claims submitted for his wife, Sharman Dow's, breast enhancements despite no medical necessity or finding of cancer.<sup>12</sup> I raised concerns about these issues.

It was also becoming increasingly apparent that Dow's conservative religious views were isolating me and my family from activities that Dow was hosting or participating in with the other similarly situated Executives. For example, tickets to the SAG awards (Estrada, Dowdell, Sham, etc.), holiday parties (Estrada), golf tournaments (Estrada, Bernard, Dowdell, Sham, etc.), and Hawaii trips (Dowdell, Sham, Estrada, Bernard, Donnellan, etc.) were all being enjoyed by my straight colleagues (*with their spouses and families included and expense covered in events*) and being paid by the Pension and Health Plans. No invitations were forthcoming for my family or me.

Dow was even including Four Square church officials and leaders in company events (SAG Awards, etc.) and using company resources and property (Conference center, staff time, etc.) for Four Square church leaders. Further, Dow was requesting (*demanding*) significant financial contributions and donations (made by SAG-PPHP vendors such as Anthem Blue Cross, Delta Dental, VSP and Value Options) to the Four Square Church's *King's College* (of which Sharman Dow is on the Executive Board) and church-golf tournaments. My straight colleagues were allowed to use workdays to attend golf and other church-sponsored functions. After awhile, it was noticeable to me and others (Ochab, Cardenas, etc.) that there was a conservative religious bias at play, directed at me – the only “openly gay” Executive at

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<sup>10</sup> According to HR management, instead of appropriately reporting this criminal activity to law enforcement authorities, Dow simply moved the wrongdoers to another department.

<sup>11</sup> Ms. Anderson repeatedly violated HIPAA privacy rules by sharing information about claims submitted and treatment plans by SAG members, including actors such as Farah Fawcett, and Michael Jackson, among others.

<sup>12</sup> Payments for this claim can be reviewed independently through Anthem Blue Cross.

the Plans.<sup>13</sup> Trustee Crabtree-Ireland appeared to understand and be sympathetic about this situation, but stated, “ *He wanted to get his full pension credits.*”

Under Dow's leadership, his ongoing covert activities and insidious exclusion of my spouse and me at company events are certainly evidence of his conservative religious motivations. These actions certainly had a detrimental effect on my career and should not be tolerated by the SAG-PPHP Board of Trustees.

The question I pose to you today is: **Are you exercising the proper level of Fiduciary oversight over the operational management of the Plans?** When I posed this question to Trustee Crabtree-Ireland, he reported to me “*that no one on the Board knows anything that goes on at the Plans, except for what Dow reports to them.*” This can hardly be the proper level of Fiduciary oversight, and, in fact, would be considered a breach of the fiduciary duty required by ERISA.

It became increasingly clear to me - Dow's family, friends and church associates were (and are) “*feeding at the SAG-PPHP financial trough.*” Some of these individuals (Estrada, Bernard, Morris, Gilbert<sup>14</sup>, etc.) have been hired to work at SAG-PPHP at high compensation levels, completely out of proportion to the work they allegedly perform or the education or experience background they possess. In addition, some of them had moving expenses paid to relocate to the Plan office (Morris, etc.) so they could be loyal to Dow. I openly questioned Dow about these roles. – in fact, I specifically discussed laying off Morris (*paid nearly \$100,00/year for Administrative Services*) and other high-paid staff and consolidating duties – due to the impending “AFTRA merger study” approximately 2 weeks before I was “suspended.” Dow appears to invest in individuals with minor (or no) educational credentials, limited outside experience and a personal connection to him so that they have no other options than to agree with Dow's decisions – because they have limited other employment opportunities at the high compensation levels they enjoy at SAG-PPHP while remaining completely “loyal” to him.

Further, I was asked by Dow to “assist” with the Department of Labor (DOL) investigation (in *February 2011*) of matters involving Sharman Dow's USI insurance company self-dealing, as well as concerns over Mr. Dow's brother-in-law, **Michael Bugbee**, and his alleged long-time “management “role at the company.

As I questioned Dow directly about these issues, I was told that I was not to talk to the Board or to the DOL about these issues. When I asked about Mr. Bugbee's employment status at the Plans (where he has been receiving salary, management benefits, and is now eligible for a lifetime pension – although he does not work at the Plans) Dow told me that Bugbee was “*a statutory employee.*” I told Dow that there was no such classification under California labor law, and Dow told me that “Amanda Bernard<sup>15</sup> would handle all DOL inquiries, including **HR inquiries**, about Bugbee.” I also questioned the fact that Mr. Bugbee's wife was also “double-billing” the Plans, as an independent contractor for the

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<sup>13</sup> I raised the issues of religious bias and anti-gay animus of Mr. Dow directly to Mr. Crabtree-Ireland in my *March 24, 2011* conversation. Other attorneys in attendance overheard the conversation.

<sup>14</sup> Mary Beth Gilbert is a pastor's wife and religious friend of Dow's.

<sup>15</sup> As you may know, Ms. Bernard is the former college roommate of Dow's daughter, Amy.

same alleged work being performed by Bugbee.<sup>16</sup> Bugbee has been paid more than \$700,000 (*not including benefits, deferred compensation and pension credits*) to produce the 3x per year newsletter, which is primarily written by SAG-PPHP staff. Interestingly, at a time, when SAG participants are experiencing **benefit cuts, higher deductibles and lower accrual rates**, Dow and his family members are enjoying lifetime pensions.

As for USI and Sharman Dow, I was informed repeatedly that Mrs. Dow was the Plans' insurance account executive (a *quid pro quo* arrangement to financially benefit the Dows) and, as such, she was provided with **substantial monetary compensation** through commissions and fees from SAG-PPHP.<sup>17</sup> Recently, Dow has been moving the insurance business commissions to Sharman Dow's associate, Ryan Wonderlich.<sup>18</sup> The USI/Dow transactions (involving payments to a spouse) are considered *self-dealing* under the ERISA statutes.

Further, in reviewing HR policy usage, I was informed that Mr. Dow had used Plan funds to pay for his home relocations, from Toluca Lake to Valencia, *for example*, and that the Ventura Office was used as a "reason" why Dow's thousands of dollars of moving expenses could be paid for by the Plans because "he expected to work from that office." Needless to say, Dow did not work from Ventura. In fact, during the entire 3+ years I worked as an Executive, Dow only visited the Ventura office 3-4 times.<sup>19</sup> This is but one example of the expense account usage by Dow and his family at the Plans. I request this Board to open a full independent review of Dow's expense reimbursements over, at least the past 4 years. I am certain that the Trustees will have an eye-opening education on what expenses the Plans have paid on behalf of Dow. Using Trust funds for personal gain can be considered **racketeering**, which is a "*pattern of illegal activity carried out as part of an enterprise that is controlled by those who are engaged in the illegal activity - including embezzlement from a pension trust fund.*"

I also became aware that Dow has used Plan employees, over a lengthy period of time on a regular basis (McIntyre, Tran, Bayraymyan, Leung, *for example*) at his home to perform personal duties and chores. In addition, several female employees (Chela Chebino<sup>20</sup>, Donna Kengla<sup>21</sup>, Cherie Payne<sup>22</sup>, etc.) reported that Dow had approached them in a sexually inappropriate manner. Dow's use of SAG-PPHP funds as his personal "piggy bank" for his family and religious associates as well as his questionable personal behavior was another

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<sup>16</sup> Accounts payable records can confirm the additional Bugbee family billings.

<sup>17</sup> As Trustees, why not ask a direct question: ***How much money has Sharman Dow received through SAG-PPHP insurance commissions with USI over the past years?***

<sup>18</sup> USI payment records can be reviewed through Accounts Receivable, as well as Trustee questioning of USI Executives.

<sup>19</sup> Card reader records can be reviewed to ascertain Dow's "entry" into the Ventura office facility.

<sup>20</sup> Ms. Chebino reported feeling harassed after receiving an e-mail from Dow telling her she was very pretty - *written in French*. After her complaint, Dow informed me to watch out for Chebino and terminate her if she became "more of a troublemaker."

<sup>21</sup> Ms. Kengla reported that she could not be separated from the Plans because she "*had had a sexual relationship*" with Dow.

<sup>22</sup> Ms. Payne reported a disturbing incident wherein Dow followed her home, while intoxicated, and seemingly demanded sexual favors from her.

area of conflict between us. Further, I also was exposed to Dow's discriminatory "approvals" of staff educational reimbursement requests, especially after he denied a request, and Dow stated about the employee recipient (Avnaim), "why would I give him any reimbursements, he has no future here with his union organizer attitude and his 'power to the people' rhetoric?" This was another source of conflict between Dow and me.

Further, Dow's direction on how he and Estrada were paid – **additional salary and funds from the IACF to boost pension earnings** – as well as Dow's direction to HR that he (Dow) also get across-the-board pay increases (e.g. 2% in 2010) in addition to his contractual increases in March were disturbing, as well as his direction to HR Manager Deeton to process the pay increase transactions without my knowledge or approval.<sup>23</sup>

As you are aware, Dow's Fiduciary Duty and Duty of Loyalty require that he act solely in the best interest of the Trust Funds and the participants, free of any self-dealing, conflicts of interest, or other abuse of the principal for personal advantage. As a result, Dow is specifically barred from using the Plans' property or assets for his own personal pursuits, or taking the Plans' opportunities for him and his family. However, in many instances, Dow used his position to gain significant financial advantage (USI, Four Square Church, Bugbee, Mrs. Bugbee, Expense accounts, etc.) for himself and his family members. This is a direct violation of ERISA. In addition, Dow has violated his duty of loyalty to the Plans and to the participants.

In maybe his final acts of retaliation against me, Dow's termination of me occurred while I have earned 4 pension credits – 1 credit short of a collectable pension. Further, Dow also cancelled me and my family's Plan health insurance after 60 days – despite the fact that I had over \$32,000 in additional calculable Plan earnings (paid in *April 2011*) from the 457 Executive Deferred Compensation Plan.<sup>24</sup> Dow is also disputing my claim filing for State unemployment benefits, citing "non performance of assigned duties." I will continue to address these issues through appropriate legal & appeal channels.

I have always been professional and reasonable in seeking a mutually agreeable solution with the SAG-PPHP to this situation. Unfortunately, Mr. Dow and his attorney, Marc Allaria (who, I would assert, is representing Dow's interests and not those of the Plans, nor the Board – which may be in conflict), have attempted to settle this matter without Trustee involvement or the allowing of an independent review of ongoing operational actions at the Plans. But, I also understand that some of the Board has been involved, though legal counsel, in this matter in attempting to seek additional information.<sup>25</sup>

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<sup>23</sup> ADP Payroll records/history ledgers can be reviewed to show Dow's pay increases and pay raise pattern – outside of his contractual March increases.

<sup>24</sup> The status of my health insurance termination and formalities of the 457 Plan, which is controlled and administered by Dow and Estrada, is the subject of a pending appeal filed with the Benefits Appeal Committee of the Board.

<sup>25</sup> In mid-April 2011, **Attorney Bob Bush** contacted one of my counsel (Attorney Nathan Goldberg, of **Allred, Maroko & Goldberg**) informing him that he (Bush) was obtaining information on behalf of the Board (of Trustees) regarding the allegations of improper conduct by Mr. Dow. (See e-mail to me from Attorney Goldberg attached as Exhibit #6.) Further, Mr. Bush informed Mr. Goldberg that "Mr. Dow and Mr. Allaria did not know of his contact" since he (Bush) was "representing the Trustees



As this proceeds to a more litigious and public forum, I am prepared to provide additional documents, witnesses and information to support my claims in the wrongful termination and ERISA-violation action. I am extremely confident that the employee, former employee and consultant witnesses, when under oath, will provide substantial support to my allegations and claims against SAG-PPHP and Mr. Dow. In addition, your personal liability as a Plan Fiduciary may be implicated as further details of these activities come to light during discovery.

I remain hopeful, after your full review, discussion and action on these significant issues, that there is still an opportunity to amicably and privately resolve this matter. If the Trustee's are interested in pursuing this course of action, please contact my legal counsel, Attorney Steven Freeburg, at 626.585.4161, or at [StevenJohn@fnlaw.com](mailto:StevenJohn@fnlaw.com).

I urge your immediate attention to this matter, as I believe that these issues will have significant ramifications on the Plans, the Participants, each and every Board Member, as well as the ongoing current SAG-AFTRA merge negotiations. I look forward to a response **within 10 days** before I proceed with further available regulatory and legal actions.

Sincerely,

Craig E. Simmons  
Former Executive Director, SAG-PPHP  
Human Resources, Information Technology & Risk Management

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*and the whistleblowing claims being made against Dow.” Later in July 2011, Attorney Bush claimed to Attorney Freeburg that Attorney Allaria was exclusively “representing the Plans.” Additionally, Mr. Allaria also spoke with Attorney Goldberg and stated “Dow knows that Mr. Simmons spoke to Mr. Crabtree-Ireland, and that Mr. Simmons felt “Dow was homophobic” Dow was “angry” about being called this – “since he has a gay son.” according to Allaria.*